



Committee	Strategic Planning Committee
Date	08/07/2024
Subject	Annual Planning Performance Report – 1 April 2023 to 31 March 2024
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Key Decision?	No
Is the report Open or Exempt?	OPEN

Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	n/a
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Purpose/Summary

This report publishes the quarterly and annual figures for the number of 'Planning Applications' and Planning related applications determined within government targets or agreed extensions of time within the most recently completed financial quarter.

Recommendation(s)

That Strategic Planning Committee notes this report concerning the performance of the Development Management Team in terms of the speed of determining planning applications.

Strategic plan

How does this proposal support Our Direction 2028?

Environmental Impact	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application process has to consider the material planning impacts upon the environment.
Sustainable Housing	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application process and the planning policies which are used to determine such applications seeks to ensure the provision of sustainable housing.
Tackling Inequalities	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application process and the planning policies which are used to determine such applications, seek to support communities, and the provision of facilities which can be beneficial including community buildings, open space and facilities for physical and mental health wellbeing.
Thriving Economy	The statistics presented in this report are not directly applicable to the this. However, it is recognised that the planning application process and the planning policies which are used to determine such applications, seek to support appropriate economic development within the district.
Our Foundations / governance of the organisation	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors.

Justification for recommendations

1. Background

- 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. Introduction

- 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 2023 to 31 March 2024, 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. During the 2023-24 financial year 4,558 formal planning applications, other planning related applications and pre-application enquiries were validated, with only slight variation between the quarters. There were 1,212 submissions validated between April to June, 1,138 between July and September, 1,089 between October and December, and 1,119 between January to April.
- 2.6. This report is intended to be read as a whole, but due to the nature of the subject this Introduction section is very long, so it has been split into the following sub-sections to aid in navigation and finding the specific information (*click on a link to jump to that section*):

- [“An accelerated planning system” consultation](#)
- [Planning Applications](#)
- [Planning Related Applications that are not ‘Planning Applications’](#)
- [Pre-application Advice](#)

- [Planning Appeals](#)
- [Planning Enforcement](#)
- [Freedom of Information Requests \(FOIs\), Environmental Information Requests \(EIRs\) and other requests for information](#)
- [Formal Complaints and Complements](#)

“An accelerated planning system” consultation

- 2.7. Recently the government consulted on various changes to planning under the title “An accelerated planning system”. This included proposals for an accelerated decision-making process for Major Commercial/Employment applications, reducing the timeframe from 13 weeks to 10 weeks and the possibility of the requirement to refund planning fees when that 10 week period was not met. East Suffolk has robustly responded to this, that this speed of process is not necessary, realistic or achievable and it would undermine the ability to achieve good decision making. Such a process would heavily depend on a lot of front-loaded consideration at the pre-application stage, which isn’t always forthcoming from applicants.
- 2.8. The consultation also proposed other constraints on the decision-making process with the aim of faster decision making. This included the concept of not permitting Extensions of Time for determination beyond 8 weeks for Householder planning applications. Such a change is unlikely to be welcomed by Councils and applicants, with both parties recognising the benefit of additional time which often allows negotiations on proposals and the ability to achieve better designed outcomes and ultimately achieve more approved applications. A curtailed process would result in more refusals, more appeals and overall, less public benefit from the planning process alongside a risk of poorer design and environmental outcomes.
- 2.9. Because of increasing recent case law in respect of the processes to amend planning permissions, the consultation proposed an additional method to the Section 73 process as a proposed Section 73 B for a more comprehensive amendments to planning applications. Our position was that such a change would be welcomed, but that it would add complexity to a complicated system which needs a more comprehensive review.

Planning Applications

- 2.10. A Planning Application, for the purpose of quarterly returned to Government and for the purposes of this report, is an application seeking Planning Permission, that is applications for Full Planning Permission, Outline Planning Permission, Reserved Matters Approval, Changes of Use, Variation of Conditions and those seeking Removal of Conditions.
- 2.11. Planning Applications are split into 3 categories for the purposes of nationally set target dates and for monitoring purposes (Major, Minor and Others). Those categories are based upon their scale. The definition of Major development is defined in The Town and County Planning (Development Management Procedure) (England) (Order) 2015 (As amended) as

“major development” means development involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits;*
- (b) waste development;*
- (c) the provision of dwellinghouses where—*
 - (i) the number of dwellinghouses to be provided is 10 or more; or*
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);*
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or*
- (e) development carried out on a site having an area of 1 hectare or more;”*

- 2.12. ‘Minor’ development for the purpose of a district Local Planning Authority such as East Suffolk Council is 1-9 dwellings or a site area of less than 0.5 if the number of dwellings is not known, and if the floorspace of the building or buildings would be less than 1,000 and the site area is less than 1 Hectare in size.
- 2.13. ‘Other’ development is Changes of Use with no physical works and Householder applications (e.g. extensions and alterations to existing dwellings, outbuildings, fences etc).
- 2.14. For the purposes of the quarterly returns to Government and therefore also for the purposes of this report the numbers for ‘Minor’ and ‘Other’ Planning Applications are combined as ‘non-major’ applications.
- 2.15. Between 1 April 2023 and 31 March 2024, East Suffolk Council determined a total of 5,732 submissions, 1,888 of which were Planning Applications i.e. those seeking Planning Permission (**Appendix A, Figure 1**, shows numbers per quarter). The remainder of the cases were planning related applications which are explored in the [Planning Related Applications that are not ‘Planning Applications’](#) section below.
- 2.16. Section 33 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) sets out the timeframes for the determination of Planning Applications by Local Planning Authorities, setting a 13- week target for ‘Major’ applications and 8 weeks for ‘non-Major’ applications. It is these national targets that East Suffolk Council must seek to meet for the determination of all planning applications.
- 2.17. The number of Major and Non-Major applications determined within the national target dates (13 weeks for Majors, 8 weeks for Non-Majors), within agreed extensions of time or out of time, has to be reported to central government on a quarterly basis. These figures are also reported to the Strategic Planning Committee on a quarterly basis and reviewed on an annual basis through this Planning Performance Report (links to previous reports are provided in the background papers section at the end of this report).
- 2.18. These 8/13 week timescales pre-date the 2015 Order and have been in place for decades. They have not been increased in length despite the increasing complexity of applications resulting from increased expectations placed upon the planning process from national legislation and planning policy, leading to increased complexity in the

considerations by consultees and the Local Planning Authority in determining such applications.

- 2.19. This increase in complexity alongside depleting resources nationally both within Local Authorities and external parties who provide consultation responses, leads to increasing pressure and dependency on agreeing extensions of time with agents/applicants, in order for Local Planning Authorities to be able to meet national targets for the proportions of applications determined within either the 8/13 week timescales or agreed extensions of time.
- 2.20. The numbers of applications determined within these 8/13 week targets and/or agreed extensions of time are monitored and have to be reported to government on a quarterly basis (currently to the Department for Levelling Up, Housing and Communities), who use these figures to monitor the performance of Local Planning Authorities.
- 2.21. Section 62A of the Town and Country Planning Act 1990 (as amended) allows for certain applications to be made direct to the Secretary of State, where the Local Planning Authority for the area has been designated for this purpose. This 'designation' can be imposed if over a two-year period, a Local Planning Authority fails to meet thresholds for the proportion of 'Major', or 'Non-Major' Planning Applications being determined within statutory target dates (13 or 8 weeks respectively) or within an extension of time agreed with the applicant/agent.
- 2.22. National monitoring is over a two-year period, requiring the overall proportion of applications within that period to meet a target of 60% for Majors and 70% for Non-Majors to be either within the national target dates or within agreed extensions of time.
- 2.23. We currently have figures for six of the eight quarters of the current 2-year monitoring period, which runs until 30 September 2024.
- 2.24. The quarterly figures for the overall proportion of Major decisions determined within the national target dates or within agreed extensions of time during the current monitoring period are shown in **Appendix E, Figure 5**. This shows that East Suffolk Council as Local Planning Authority is consistently achieving well above the national target of 60% and our own stretch target of 65%, with an overall figure for the 2 year period of 89%.
- 2.25. The equivalent figures for Non-Major decisions are shown in **Appendix E, Figure 10**, which shows that whilst in most quarters we have achieved in excess of the required 70%, during the last quarter (January to March 2024), only 67.84% of Non-Major Planning Applications were determined either within the national target dates or within agreed extensions of time.
- 2.26. This reduction in performance is unfortunate. However, during the quarter there were a number of factors that likely affected the capacity of the team.
- 2.27. It should also be noted that between 1 April 2023 and 31 March 2024, East Suffolk Council determined a total of 5,732 planning applications, other planning related applications and pre-application submissions, which is significantly higher than the 4,558 submissions validated during this period. Therefore, a significant number of the

decisions issued must have been submitted prior to the period starting, indicating that the team has been clearing out and determining some older cases, which in turn will have reduced the performance figures (unless extensions of time were secured). It should also be noted that the 5,732 determinations is significantly higher than the 5,125 determinations during the previous financial year (2022-23), and the teams hard work in determining approximately 600 more cases in that year, through a very similar number of case of officers, should be commended.

- 2.28. Officers are aware of this dip in performance and are working hard to increase the numbers of non-major applications determined in time.
- 2.29. However, whilst this dip is far from ideal, it is not a significant problem in terms of Government Monitoring as it is the overall figure for the two-year monitoring period is key to the national monitoring process, and at the close of the last quarter we were still achieving 76.26%, which provides some buffer above the 70%. Although it is recognised that we need to ensure that the efforts to improve performance are maintained.
- 2.30. Based upon the graphs in **Appendix E, Figures 8 and 9**, a significant proportion of the Non-Major decisions are Householder applications. Therefore, they are recognised as a key target to improve performance both in terms of case officers ensuring that efforts are made to improve the numbers being considered and recommendations drafted but also in terms of the speed of review and signing off.

Planning Related Applications that are not 'Planning Applications'

- 2.31. 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.
- 2.32. A graph showing the number of key types of these other types of planning related applications is included in **Appendix A, Figure 4**, with further detailed breakdowns in the figures in **Appendix C**. There were more decisions issued for these types of applications during the January to March quarter than the previous quarter, which may in part have affected the capacity the team to issue the non-major planning application decisions as quickly as we would have liked.
- 2.33. Whilst these other types of planning related applications do not count for the purposes of the 2-year monitoring period targets, they are still important, and many still have to be issued in time to avoid other impacts. For example, Prior Notifications must be determined within the 8-week period in order for the Local Planning Authority to be able to impose conditions and/or to avoid the potential for deemed consent.
- 2.34. Therefore, such applications cannot be put aside to allow for a sole focus on the Planning Applications. However, the team recognises that Planning Applications, and certain types of the other forms of application such as Prior Notifications have to be given priority over those that do not have such formal impacts.

Pre-application Advice

- 2.35. In addition 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.
- 2.36. During the 2023-24 financial year there were 1,482 Pre-application submissions closed, with advice being provided to potential applicants and/or agents on whether planning permission or another form of planning consent would be required, the likelihood of such consents being granted, potential ways in which schemes could be improved, and the information that would need to accompany a formal application for consent. The number of cases closed per quarter are included in **Appendix C, Figure 13**.
- 2.37. The pre-application service we provide, takes significant officer time, not only in reviewing the proposals submitted for advice, but also in meetings, and drafting written advice and the review of that written advice. 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.
- 2.38. 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.
- 2.39. There remains an intention to review the pre-application service we provide, beginning with a consultation in the form of a questionnaire. The intention is to commence that consultation this summer.
- 2.40. 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.
- 2.41. This duty officer system can potentially reduce the need for the submission of some of the very simple pre-application enquiries and therefore the officer time that entails, but it must also be recognised that some of the queries to the duty officer appear to be seeking advice on a matter that is complex and cannot be answered via a quick phone call, so those customers have to be directed to the pre-application service in any case.

Planning Appeals

- 2.42. 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 outlined in this report and in **Appendix F** are not identical to those reported in those quarterly reports.

- 2.43. 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 are also rights of appeal against conditions imposed on consents, a right of appeal if an application is not determined within a government set target or an agreed extension of time and against Enforcement Notices that are served.
- 2.44. Between 1 April 2023 and 31 March 2024, there were 73 appeal decisions, including:
- 56 against refusals of planning permission (2 Majors, 36 Minors and 18 Others),
 - 1 appeal against the inclusion of a condition on a planning permission,
 - 3 appeals against the refusal of Prior Notification applications,
 - 2 appeals against refusals of Advertisement Consent applications,
 - 1 appeal against the refusal of a Certificate of Lawfulness application,
 - 1 appeal against the refusal of a Listed Building Consent applications,
 - and
 - 6 appeals against enforcement notices,
- 2.45. There were no applications for costs decisions during this period.
- 2.46. The majority of the above appeals were determined via a written representations process (18.8% via House Holder Fast Track and 75% via normal written representations route), with 5.8% determined via Hearings. There were no decisions relating to appeals subject to a Public Enquiry (**Appendix F, Figure 3**).
- 2.47. Overall, 89% of these appeals were dismissed with just 6% being split decisions (i.e. partially allowed and just 5% allowed (**Appendix F, Figure 8**).
- 2.48. In comparison, the national appeal figures published by the Planning Inspectorate for the April 2022 – March 2023 show a national appeal success rate for Section 78 appeals of approximately 29% or 71% dismissed (latest figures found published, [Planning Inspectorate Statistical Release July 2023.pdf \(publishing.service.gov.uk\)](#)).
- 2.49. Therefore, although our figures include enforcement notice appeals as well as Section 78 appeals it appears that the Local Planning Authority is demonstrating a very good appeal success rate.
- 2.50. Planning Appeals can take a significant period of time to be determined, which is in part dependent upon how long the applicant/their agent takes to submit any such appeal (within the nationally set timescale for submission of an appeal), the complexity of the scheme and the appeal process type, which is in large part decided by the Planning Inspectorate. Therefore, the time taken between ESC issuing a decision, and the determination of any appeal by the Planning Inspectorate lies outside the control of the Local Planning Authority.

- 2.51. It is interesting to note that of the 56 appeal decisions received during this financial year, 39 of them (70%) took more than a year between an ESC decision and the Planning Inspectorate to issue their decision. Of those decisions, 11 (20%) took more than 18 months. A graph showing the time taken between ESC decision and the Planning Inspectorate issuing an appeal decision is included in **Appendix F, Figure 10**.
- 2.52. The time taken for an appeal decision to be issued can be increased by any delay in the applicants/their agents submitting the appeal to the Planning Inspectorate, and therefore the time taken between the appeal being received and the appeal decision being issued is potentially a more accurate representation of the time taken. A graph showing the time taken between appeal received date and PINS Decision is included in **Appendix F, Figure 11**. However, that also shows a significant delay between appeals being received and appeal decisions being issued by the Planning Inspectorate, because 17 of the 56 decisions (30%) took more than a year from receipt to determination, with 4 of those decisions taking more than 18 months from receipt.
- 2.53. When such appeals relate to retrospective Planning Applications and/or Enforcement Notices, the period of time taken for a decision to be received from the Planning Inspectorate, can significantly delay any resolution, and associated Planning Enforcement Action, including the time frame for notices to come into effect, and in turn the period for compliance, and then any subsequent action that may be required (see [Planning Enforcement](#) section below). The appeal process therefore significantly lengthens the enforcement process and is outside the control of East Suffolk Council.

Planning Enforcement

- 2.54. 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: “*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.*”
- 2.55. Between 1 April 2023 and 31 March 2024, there were 456 new planning enforcement cases logged and 495 planning enforcement cases were closed. Therefore, the team closed more cases than were received during this period. This will have included closing cases received during the previous financial year.
- 2.56. This closure of more cases than opened may be in part a reflection of an additional Assistant Enforcement Officer joining the team in September 2023. This additional team member and assignment to team areas has increased capacity within the Enforcement Team and enabled the alignment of the areas they each cover with Development Management Team Areas, i.e. the North, Central and South Teams.

- 2.57. The cases logged during the financial year were spread across the district, with 42.7% in the north team area, 19.7% in the central team area and 37.6% within the south team area. Although these figures are not a true reflection of the spread, because the central team area was only created in September, so cases logged between April and September were logged as under the former north/south areas, which artificially inflates the apparent figures for those areas.
- 2.58. A fairer way to look at the geographical distribution of cases is by Ward or Parish. During the 2023-24 financial year, the ward with the highest number of planning enforcement cases was Aldeburgh and Leiston, with 36 planning enforcement cases (8% of the total number of cases), and the ward with the lowest number of planning enforcement cases was Rushmere St Andrew with 2 planning enforcement cases (see **Figures 2 and 3 of Appendix H**).
- 2.59. During the 2023-24 financial year, the parish with the highest number of planning enforcement cases was Lowestoft with 59 cases and then Felixstowe was second with 35 cases, which is to be expected given that they are the largest settlements within the district. There were 76 parishes with no planning enforcement cases, which is not dissimilar to the four previous financial years, which had 75, 71, 63 and 69 parishes with no cases each year. Many of those parishes without any cases are the smaller rural parishes, often those of a scale that do not have defined settlement boundaries in the Local Plans (see **Figures 4 and 5 of Appendix H**).
- 2.60. 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.
- 2.61. However, many cases reported to ESC as potential breaches of Planning Control and logged as Planning Enforcement cases, are in fact not Planning breaches. Between 1 April 2023 and 31 March 2024, 222 of the 495 cases closed were not breaches of control, that is a significant proportion at approximately 45%. This is consistent with the previous financial year during which 455 of closed cases were closed as 'no breach' (see figures in **Appendix J**).
- 2.62. 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.
- 2.63. 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.

2.64. 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:

“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.” Source <https://www.gov.uk/guidance/ensuring-effective-enforcement>

2.65. 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:

“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. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- *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;*
- *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
- *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”*

Paragraph: 011 Reference ID: 17b-011-20140306, Revision date: 06 03 2014, source: <https://www.gov.uk/guidance/ensuring-effective-enforcement>

2.66. 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.

2.67. During the 2023-24 financial year, 9 planning enforcement notices were served, comprising 5 Enforcement Notices in relation to Operational Development, 3 Enforcement Notices in relation to Changes of Use and 1 temporary stop notice (**Figure 2 of Appendix K**).

2.68. Prior to proceeding with the serving of a formal notice, 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 in most cases takes significant time and sometimes we have to gather evidence over several weeks or months due to the nature of the breach.

2.69. 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.

- 2.70. 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.
- 2.71. 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, enforcement related appeals took an average of 46 weeks (Figures from Planning Inspectorate statistical release 20 January 2022 - GOV.UK (www.gov.uk)).
- 2.72. During the 2023-24 financial year there were 6 enforcement related appeal decisions for the East Suffolk Council area, which between them took a total of 3,012 days between ESC serving an enforcement notice and an appeal decision being issued, which equates to an average of 502 days (or 71.7 weeks or 1.4 years) per decision. This is significantly longer than the average reported nationally for 2020-21.
- 2.73. Whilst an appeal decision is awaited on an Enforcement Notice, the pursuit of an action is in effect put on hold, and East Suffolk Council as Local Planning Authority is unable to pursue compliance from the site owner/operator, and therefore these delays in such appeal decisions being made, significantly lengthens the planning enforcement process.
- 2.74. If the appeal is dismissal (i.e. the notice upheld) and 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 and is further dependent upon court dates etc.
- 2.75. 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.
- 2.76. The Enforcement Performance Report also on this agenda includes details of the numbers 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 2024.
- 2.77. There is also Enforcement Progress Report on this agenda, explaining the current position and future intentions in terms of improvements to internal processes and use of software etc in relation to Planning Enforcement matters.

[Freedom of Information Requests \(FOIs\), Environmental Information Requests \(EIRs\) and other requests for information](#)

- 2.78. Between 1 April 2023 and 31 March 2024, Planning Services received 22 FOI requests and 87 EIR requests, along with 2 Subject Access Requests (SAR) received (1 released in

full and 1 closed because requester did not respond when asked to provide ID/clarification), and 2,702 personal searches (i.e. those usually undertaken for property sales/ purchases).

- 2.79. As shown in the graphs in **Appendix M, Figures 1 and 2**, there were significantly more EIR requests than FOIs, and the requests were throughout the year. Of these requests, 29.9% were refused, 40.19% were partially released and 29.9% were released in full. Given the proportions refused or only partially released, and that such requests can only be refused or partially refused for limited reasons, it appears that at least some of these requests are either seeking information not covered by the FOI/EIR process and/or are requests that would be too onerous in terms of the vast quantity of data being sought.
- 2.80. Dealing with such requests and the collation of the requested documents, and redaction of personal contact details and other sensitive data, takes significant Planning Services Officer time. Unfortunately, the time taken was not recorded on all the FOI and EOR cases during this period, but of the 23 cases it was recorded there was an average of approximately 2 and a half hours per request, although from experience officers know that some requests take significantly longer than 2 and a half hours. Assuming a similar length of time on all the FOI and EIR, that would equate to 272.5 half hours of officer time over the year, (or more than 11 days (24-hour period days)). This is a lot of officer time that is take away from dealing with applications, pre-application enquires, enforcement cases etc.
- 2.81. However, we have to deal with and respond to such requests, and in order to make data accessible to the public, 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 11 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. The introduction of the Developer Contribution Dashboard has also significantly reduced the number of EIR/FOI requests or allowed much swifter responses to be provided, ensuring that data on Section 106 obligations and funding and Community Infrastructure Levy is up to date, publicly available and transparent.
- 2.82. Therefore, some of these 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.

Formal Complaints and Complements

- 2.83. Planning and particularly the application process can be an emotive process, and there are always likely to be those that do not agree with the outcomes/decisions made by the Local Planning Authority to either refuse or grant planning consent. Whilst applicants

have a right of appeal to the Planning Inspectorate, third parties have no such right of appeal. The only way they can change the outcome would be through a legal challenge on the grounds of a failure in the decision-making process itself. Such a challenge can be very expensive and still may not overturn a decision to grant consent.

- 2.84. Understandably, third parties who have objected to a scheme that has subsequently been approved, may not wish to or are unable financially to mount a legal challenge (or there are no grounds for such a challenge to be made). Therefore, they can see making a formal complaint as their only reasonable recourse, even though the formal complaints process will not undue a formal planning decision that has been made.
- 2.85. Others will submit a formal complaint for a variety of reasons which can include they feel they have not considered an appropriate level of customer service through the process or because they disagree with a decision to close an Enforcement Investigation.
- 2.86. 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 services » 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.
- 2.87. 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 complaint, which is investigated and responded to by a Senior Manager, Head of Service or Director, usually with 20 working days.
- 2.88. Between 1 April 2023 and 31 March 2024, there were 37 Stage 1 complaints received. Of those Stage 1 Complaints investigated and concluded during that time, 71% were not upheld (**Appendix M, Figure 6**).
- 2.89. The remainder were partially upheld (12%) or Upheld (17%). Of those that were upheld, 3 were related to the customer journey, 2 related to fulfilment of promised actions and 1 related to adherence to policy (**Appendix M, Figure 7**). Those partially upheld were for reasons related to the clarity or fairness of decision, or customer journey.
- 2.90. The findings of the Stage 1 complaints are set out in **Appendix M, Figure 9**, which shows that in 24 cases the Council was found not to be at fault and there were no learning requirements as a result.
- 2.91. During the monitoring period there were 38 requests for Stage 2 review. All were investigated and closed as 'original decision stands', i.e. they were in agreement with the findings of the Stage 1 investigations.
- 2.92. If the customer is still not satisfied with the Stage 2 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.

2.93. Between 1 April 23 and 31 March 2024, there were 9 complaints to the Ombudsman in relation to Planning Application and Planning Enforcement Matters. In 8 of these cases the Ombudsman undertook initial inquiries and then closed the cases. The explanations for closure primarily state that they would not investigate further as they considered either:

- they were unlikely to find fault or evidence of fault by the Council sufficient to warrant an investigation, or
- there is not enough evidence of fault affecting the planning outcome, or
- that they did not consider the complainant had suffered significant personal injustice as to warrant further investigation, or
- that the area of any potential fault would fall outside their jurisdiction.

2.94. In relation to the one complaint on which the Ombudsman found fault, the issue was related to an error with the information on the Council's website about the expiry date of a prior notification permission. However, they did not consider this caused injustice to the customer because they would have had to submit a planning application for the works undertaken regardless of this error. They also acknowledged that the Council had already corrected the information on its website and decision notice template at the time of the Ombudsman investigation.

2.95. The team also receive complements, although as to be expected as there is generally less motivation to compliment than complaint, there were far fewer complements. During the 2023-24 period, the team received 2 formal compliments, which are complimentary about the service provided and the assistance provided by officers.

3. Proposal

3.1. These figures should continue to be monitored on a quarterly basis.

4. Financial Implications

4.1. As explained in the [previous Planning Performance Report to Strategic Planning Committee in January 2024](#), the planning application fees were increased on 6 December 2023 through [The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2023 \(legislation.gov.uk\)](#) and those regulations also amended Town and Country Planning Development Management Procedure Order 2015 (as amended), to introduce a 16 week planning guarantee.

4.2. This means where a planning application takes longer than the statutory time periods (i.e. 13 weeks for Major and 8 Weeks for Non-Major) and an extension of time has not been agreed with the applicant, the Planning Guarantee applies.

4.3. This means that if a Major application is not decided within 26 weeks or a Non-Major within 16 weeks, and where no extension of time has been agreed, or appeal against non-determination been submitted, then the fee paid by the applicant will be refunded to them.

- 4.4. Therefore, the Local Planning Authority needs to ensure to ensure that planning applications are determined within the set timescales or agree extensions of time in order to minimise the potential risk for fees to be refunded on such applications.
- 4.5. However, it should be noted that applications can potentially be refused if the applicants are deliberately trying to delay the determination or refuse to agree an extension of time in order to seek to secure a refund. National Planning Policy Guidance is clear that applicants should not attempt to delay a decision on their application simply to obtain a fee refund and that a Local Planning Authority will be justified in refusing permission when an applicant causes deliberate delay and has been unwilling to agree an extension of time [Determining a planning application - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/determining-a-planning-application).

5. Legal Implications

- 5.1. If a planning application is not determined within the eight- or 13-week target time, or within an agreed extension of time, then the applicants have a right to appeal to the Planning Inspectorate, who would then be the determining authority for that planning application.
- 5.2. However, it should be noted that planning applications do not obtain deemed consent if they are not determined in time. The eight- and 13-week time frames for determination are important for ensuring that the not only the decision on each application remains with the Local Planning Authority, but ensuring that the government targets are met for the two-year monitoring period process, so that wider determination powers remain with the Local Planning Authority.
- 5.3. Prior Notification applications which do not form part of this two-year monitoring period process, because they are not Planning Applications, also need to be determined within time, because if the proposals meet the criteria to be Permitted Development subject to the Prior Notification Process (as set out in the [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2015/1004)), are not determined within the set timescale or an agreed extension of time, they can obtain deemed consent, which means works can go ahead outside the control of the Local Planning Authority.

6. Risk Implications

- 6.1. If the Local Planning Authority fails to meet the rolling two-year rolling monitoring period targets for the determination of Planning Applications, it can be put into special measures by the Secretary of State, which could mean that all or some of its decision making powers for applications could be removed, and applicants would have the option to apply directly to the Planning Inspectorate, removing the local decision making process for such applications.
- 6.2. Therefore, it is important that these quarterly figures continue to be monitored to ensure that the Local Planning Authority remains on track to meet the 2-year monitoring period targets.

- 6.3. Whilst as set out in the [Planning Appeals](#) section of this report, the Local Planning Authority is performing well in terms of its appeal performance, and there were not appeals for awards of costs in this financial year, the Local Planning Authority must remain prepared to defend at refusal its issues and act reasonably in doing so, to ensure that it does not leave itself open to a costs application being awarded against it.
- 6.4. In terms of Planning Enforcement, the risks of development becoming potentially immune from action if the Local Planning Authority fails to investigate and take formal action if/when required should be recognised. However, the time periods for immunity in terms of breaches are 4 years or 10 years (depending upon the nature of the breach and when it occurred as the legislation changed earlier this year), and therefore this time reduces the risk of such breaches becoming immune.
- 6.5. The team continues to seek to investigate and resolve or take action (if appropriate) on breaches of planning control as swiftly as possible whilst meeting the requirements of national legislation and according with the [East-Suffolk-Planning-Enforcement-Policy.pdf \(eastsuffolk.gov.uk\)](#).

7. Options

- 7.1. There aren't any options other than to continue to monitor the quarterly figures, and seek to address any potential issues if or as and when they arise.

8. Recommendations

- 8.1. That the report concerning the performance of the Development Management Team in terms of the speed of determining planning applications is noted.

9. Reasons for Recommendations

- 9.1. These figures form part of the Local Planning Authority's statutory returns to government, and it is important to monitor these figures, to ensure that the Local Planning Authority remains on track to meet the two-year rolling monitoring period targets, to ensure that performance remains at a level above the minimum threshold, so that the Local Planning Authority does not become at risk of being put in special measures.

10. Conclusions/Next Steps

- 10.1. Strategic Planning Committee should continue to receive these quarterly monitoring reports.

Areas of consideration comments

Section 151 Officer comments:

The Section 151 Officer has received a copy of the report and has no further comments'

Monitoring Officer comments:

The Monitoring Officer has been consulted on this report and has no additional comments.

Equality, Diversity and Inclusion/EQIA:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Safeguarding:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Crime and Disorder:

There are no specific implications arising in terms of this matter from the statistics included within this report.

Corporate Services implications:

(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)

As Legal Services are the determination team for Certificate of Lawfulness (with input from the Development Management Team, who also manage the process), they have a significant effect upon the timeframes for the determination of such applications, and therefore the performance of such applications.

The Legal Services Team are also involved in legal agreement, which can be required for some planning applications, and therefore they also affect the timescale for the determination of such applications (along with outside factors).

Residents and Businesses consultation/consideration:

Not applicable to the statistics presented in this report

Appendices:

Appendix A	Numbers of different types of planning related applications determined by quarter between 1 April 2023 and 31 March 2024
Appendix B	Numbers of each type of 'Planning Application' determined per quarter between 1 April 2023 and 31 March 2024
Appendix C	Numbers of various types of non-planning applications (but planning related) and Prior Notification/Approval applications, determined by quarter between 1 April 2023 and 31 March 2024
Appendix D	The determination outcomes of 'Planning Applications' determined by quarter between 1 April 2023 and 31 March 2024
Appendix E	The timeliness of 'Planning Decisions in terms of application scale'
Appendix F	Outcomes of Appeals between 1 April 2022 and 31 March 2024
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 2024 shown per month

Appendix K	Numbers of Enforcement Notices Served
Appendix L	Timeframes for the closure of enforcement case
Appendix M	The number of Freedom of Information Requests and Formal Complaints related to Development Management and Planning Enforcement for the period 1 April 2023 – 31 March 2024

Background reference papers:

Date	Type	Available From
8 July 2024	Review of the North, South and Strategic Planning Committees and the work of the Referral Panel 2023-2024	CMIS > Meetings
8 April 2024	Planning Performance Report – October to December 2023	CMIS > Meetings
8 April 2024	Enforcement Performance Report – October to December 2023	CMIS > Meetings
8 January 2024	Planning Performance Report – July to September 2023	CMIS > Meetings
8 January 2024	Enforcement Performance Report – July to September 2023	CMIS > Meetings
2 October 2023	Planning Performance Report – April to June 2023	CMIS > Meetings
2 October 2023	Enforcement Performance Report – April to June 2023	CMIS > Meetings
3 July 2023	Planning Performance Report – January to March 2023 And Appendices <i>(Includes annual and quarterly figures for April 2022 – March 2023, including those in the quarterly performance reports for that financial year)</i>	CMIS > Meetings
6 June 2022	Planning Performance Report – April 2021 to March 2022 <i>(Includes annual and quarterly figures for April 2021 – March 2022, including those in the quarterly performance reports for that financial year)</i>	CMIS > Meetings
7 June 2021	Planning Performance Report and Appendices	CMIS > Meetings
4 June 2020	Development Management Performance Report	CMIS > Meetings
March 2019	East Suffolk Council Local Planning Enforcement Plan	East-Suffolk-Planning-Enforcement-Policy.pdf (east Suffolk.gov.uk)