



## AUDIT & GOVERNANCE COMMITTEE

Monday, 11 December 2023

<b>Subject</b>	Amendment to the Constitution: Planning Committee Member Call In Process
<b>Cabinet Member</b>	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
<b>Report Author(s)</b>	Katherine Scott Principal Planner (Technical Lead, Development Management) <a href="mailto:katherine.scott@eastsoffolk.gov.uk">katherine.scott@eastsoffolk.gov.uk</a>  Ben Woolnough Planning Manager (Development Control) <a href="mailto:ben.woolnough@eastsoffolk.gov.uk">ben.woolnough@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Philip Ridley Head of Planning and Coastal Management <a href="mailto:philip.ridley@eastsoffolk.gov.uk">philip.ridley@eastsoffolk.gov.uk</a>
<b>Director</b>	Nick Khan Strategic Director <a href="mailto:Nick.khan@eastsoffolk.gov.uk">Nick.khan@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable
<b>Wards Affected:</b>	None

## Purpose and high-level overview

**Purpose of Report:**

To ask Audit and Governance Committee to consider proposed changes to East Suffolk Council's Constitution with respect to the consideration of planning applications by the Planning Referral Panel and to recommend to Full Council that the changes be implemented.

**Options:**

To recommend, or not to recommend, to Full Council that the Strategic Planning Committee's proposals of 3 July 2023 to amend the Constitution to introduce a Planning Committee Member Call in process and to amend the scheme of delegations in the Constitution as detailed in this report be implemented.

**Recommendation/s:**

That Audit and Governance Committee recommends to Full Council that the Council's Constitution be amended as per Strategic Planning Committee's proposals of 3 July 2023, to introduce a Planning Committee Member Call in process and to amend the scheme of delegations, as detailed at sections 3.1 and 3.2 of this report.

## Corporate Impact Assessment

**Governance:**

Not applicable

**ESC policies and strategies that directly apply to the proposal:**

Our Direction 2028

**Environmental:**

Not applicable

**Equalities and Diversity:**

Not applicable

**Financial:**

Not applicable

**Human Resources:**

Not applicable

**ICT:**

Not applicable

**Legal:**

When making planning decisions, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that regard is to be had to the Development Plan and that the determination shall be made in accordance with the plan unless material consideration indicates otherwise. In the case of East Suffolk, the Development Plan consists of the

adopted [local plans](#) and any relevant [Neighbourhood Plan](#), if there is one for the area. The decision should also be made in accordance with the [National Planning Policy Framework](#) unless there are material considerations to indicate otherwise.

**Risk:**

Not applicable

**External Consultees:** Not applicable

## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input 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 type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
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 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"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input 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"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

## How does this proposal support the priorities selected?

Click or tap here to enter text.

## Background and Justification for Recommendation

1 Background facts	
1.1	<p>In April 2019, East Suffolk Council brought into force a new scheme of delegation. This scheme sets out the means by which planning applications will be determined and seeks to clarify which applications will be determined by the Head of Planning and Coastal Management and which will be referred to the Planning Committee for consideration.</p> <p>All planning application decisions are delegated to the Head of Planning and Coastal Management unless:</p> <ol style="list-style-type: none"><li>1. The Planning Application is, in the opinion of the Head of Planning and Coastal Management or the Chairman/Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect; or</li><li>2. The applicant or landowner is East Suffolk Council; or</li><li>3. The applicant, or agent, is an East Suffolk Councillor or an East Suffolk Council employee, or the applicant, or agent, is a close relative of an East Suffolk Councillor or East Suffolk Council employee; or</li><li>4. The 'minded to' decision of the Planning Officer is contrary to either:<ol style="list-style-type: none"><li>a. The comments received from the Town or Parish Council within the 21-day consultation period; or</li><li>b. The comments received from the Ward Member within the 21-day consultation period; or</li><li>c. The comments received from a statutory consultee within the 21-day consultation period.</li></ol></li></ol> <p>If item 4 is invoked, the Planning Application will be referred to the Planning Referral Panel – the panel will discuss with the Head of Planning and Coastal Management (based on planning grounds) to either refer the application to Planning Committee for decision or remain delegated to the Head of Planning and Coastal Management</p>
1.2	<p>The Planning Referral Panel is a consultative panel consisting of the Chair and Vice Chair of each area Planning Committee, convened by the Head of Planning and Coastal Management as necessary and established to advise on the delegated route of decision making for planning permission and other planning matters as part of the scheme of delegation.</p> <p>Officers use the Planning Referral Panel to consult with the Chair and Vice Chair of the committees as to whether the application or matter will be determined by the relevant Planning Committee or remain delegated to the Head of Planning and Coastal Management in accordance with the Scheme of Delegation.</p>

	<p>The final decision on whether the relevant Planning Committee or the Head of Planning and Coastal Management shall determine the application or matter shall be made by the Head of Planning and Coastal Management as part of the consultation with the Planning Referral Panel. The Planning Referral Panel will also consider whether it is appropriate for the relevant Planning Committee to undertake a site visit before the case is presented to the Planning Committee.</p> <p>The Planning Referral Panel was introduced when East Suffolk Council was established to enable the caseload of the planning committees to be carefully managed so they were considering only those cases where there were clear planning issues which warranted further consideration and debate. Without such a system in place the planning committees would not be able to function effectively because the council receives a significant volume of planning applications and other planning submissions (almost 4,500 in 2022).</p>
	<p>The Planning Referral Panel is called by the Head of Planning and Coastal Management, as necessary, for consultative purposes to agree the route for determining a planning application.</p> <p>The Planning Referral Panel will consider referral if the 'minded to' decision by Planning Officers is contrary to comments received from the Town or Parish Council, a Ward Member or a Statutory Consultee.</p> <p>The Planning Referral Panel is a consultative panel with the Head of Planning and Coastal Management. The Head of Planning and Coastal Management will have final say on items to be referred for Committee decision rather than exercising delegated Officer powers.</p>
1.3	<p>Since its introduction, some concerns about the Referral Panel process have been raised, namely transparency and the role of Ward Members in the process. Additionally, the Council was made aware of concerns from some Town and Parish Councils regarding the Referral Panel process, forwarded to officers by the Suffolk Association of Local Councils (SALC), based on a SALC survey responded to by 59 of the 175 Town and Parish Councils in East Suffolk.</p>
1.4	<p>Between 1 April 2022 and 31 March 2023, the Referral Panel delegated 158 applications to officers for determination (79%) and referred 38 applications to Planning Committee (19%), with the remaining 3 applications being withdrawn. This compares to 88% delegated and 12% referred in 2021/22, 82% delegated and 18% referred in 2020/21, and 87% delegated and 12% referred in 2019/20.</p>
1.5	<p>Between 1 April 2022 and 31 March 2023, applications were at Planning Committee for the following reasons:</p> <ul style="list-style-type: none"> <li>- 49% of applications were at Planning Committee due to referral by the Planning Referral Panel.</li> <li>- 24% of applications at Planning Committee were taken directly by the Head of Service</li> <li>- None were taken directly by referral by the Chairman/Vice-Chairman of the Planning Committee.</li> <li>- 27% were there due to an East Suffolk Council connection</li> </ul>
1.6	<p>Please see Appendix 1 for Key Figures on Planning Referral Panel (1 April 2019 to 30 November 2023) and Planning Committees (1 April 2019 to 31 October 2023).</p>

## 2 Current position

2.1	On 2 March 2023, Scrutiny Committee considered the matter of democratic accountability within the Planning process and made a series of recommendations to Strategic Planning Committee.
2.2	On 3 July 2023, Strategic Planning Committee resolved that Audit and Governance Committee considers and recommends to Full Council the approval of the introduction of a 'Planning Committee Member Call In' process and an amendment to the scheme of delegations.

## 3 How to address current situation

3.1	<p>Strategic Planning Committee has recommended that a 'Planning Committee Member Call In' process be introduced to East Suffolk Council's Referral Panel arrangements and consequential amendments be made to the Constitution.</p> <p>The proposed 'Planning Committee Member Call In' process is:</p> <ol style="list-style-type: none"><li>1. Within the 21 day consultation period [on a planning application] if a contrary position to the officer recommendation is received from the Town or Parish Council and a request for Committee decision is received from a Ward Member, then a Planning Committee member call-in process would be triggered.</li></ol> <p>In the event that only a Town/Parish Council response or Ward Member response is received then the existing Referral Panel process would proceed.</p> <ol style="list-style-type: none"><li>2. With the Planning Committee member call-in process triggered, the Planning case officer would send a notification to all relevant North or South Planning Committee members by email.</li></ol> <p>This would be carried out once the officer is able to understand whether a decision will be contrary to Town or Parish Council and Ward Member positions.</p> <p>The Notification shall include:</p> <ul style="list-style-type: none"><li>• The case reference number, the description of development and the address</li><li>• A link to Public Access to view the application and documents</li><li>• A copy of Town or Parish Council response</li><li>• A copy of the Ward Member response</li><li>• A sentence setting out the likely officer recommendation</li></ul> <ol style="list-style-type: none"><li>3. After the notification has been sent, any member of the relevant North or South Planning Committee must respond within 5 working days if they wish to confirm that it should be considered by the Planning Committee. Any Planning Committee member calling the application in must 'reply to all' (including all members of the relevant Planning Committee) and the first response received will be taken as the call-in request.</li></ol>
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	<p>A call-in request from a Planning Committee member must set out how they consider it meets the expectation that :</p> <p>“The proposal would be of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect”.</p> <p>The above process could not be utilised where:</p> <p>a) the Head of Planning and Coastal Management or the Chair/Vice Chair of the Planning Committee, has already made the decision that in their opinion the application should be determined at Planning Committee because</p> <p>“The proposal would be of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect” (point 1 of the current scheme of delegation);</p> <p>or</p> <p>b) either the applicant or landowner is East Suffolk Council, or the applicant or agent is an East Suffolk Council employee: or the applicant, or agent, is a close relative of an East Suffolk Councillor or East Suffolk employee, (points 2 and 3 of the current scheme of delegation) because such applications have to be determined by Planning Committee in any case.</p>
3.2	<p>Strategic Planning Committee also recommended an amendment to point 1 of the Register of Specific Officer functions for the Head of Planning and Coastal Management in the Scheme of Delegation to Officers (Section E, Appendix 1 of the Constitution).</p> <p>It was noted that at present a Chair or Vice Chair of the Planning Committee can potentially over-ride the vote of the Referral Panel to refer an application to Planning Committee. This is considered an unfair route to take and discredits the Referral Panel process and opinions of the other three members of the panel.</p> <p>The current wording is:</p> <p>“The Planning Application is, in the opinion of the Head of Planning and Coastal Management or the Chairman/Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its significance in some other respect”</p> <p>It is proposed that this should be amended to:</p> <p>“The Planning Application is, in the opinion of the Head of Planning and Coastal Management or the Chairman/Vice Chairman of the Planning Committee, of significant public interest; would have a significant impact on the environment; or should otherwise be referred to Members due to its</p>

	significance in some other respect and this request has been made prior to an application being placed on the Agenda for a Referral Panel”.
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#### 4 Reason/s for recommendation

4.1	To promote democratic accountability within the planning process.
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## Appendices

Appendices:	
<b>Appendix A</b>	Key Figures on Planning Referral Panel (1 April 2019 to 30 November 2023) and Planning Committees (1 April 2019 to 31 October 2023).

Background reference papers:		
Date	Type	Available From
02/03/23	ES-1489 – Democratic Accountability within the Planning Process (report to Scrutiny Committee)	<a href="#">Document.ashx (cmis.uk.com)</a>
03/07/23	ES-1574 – Response to Scrutiny Committee of March 2023	<a href="#">Document.ashx (cmis.uk.com)</a>