



STRATEGIC PLANNING COMMITTEE

Monday, 9 December 2019

SUGGESTED AMENDMENTS TO THE CODE OF GOOD PRACTICE FOR MEMBERS – PLANNING AND RIGHTS OF WAY

EXECUTIVE SUMMARY

1. A review of the Code of Good Practice for Members – Planning and Rights of Way, conducted in October 2019, highlighted a number of amendments required to reflect the current practice and arrangements for site visits undertaken by the Council's Planning Committees.
2. The Strategic Planning Committee is asked to review the proposed amendments and recommend that they be approved by both the Audit and Governance Committee and Council.

Is the report Open or Exempt?	Open
-------------------------------	------

Wards Affected:	All Wards in the District
------------------------	---------------------------

Cabinet Member:	Councillor Steve Gallant Leader of the Council Councillor David Ritchie Cabinet Member with responsibility for Planning and Coastal Management
Supporting Officers:	Hilary Slater Head of Legal & Democratic Services and Monitoring Officer 01394 444436 hilary.slater@eastsoffolk.gov.uk Liz Beighton Planning Development Manager 01394 444778 liz.beighton@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 East Suffolk Council (ESC) was formed on 1 April 2019 to administer the areas formerly covered by Suffolk Coastal District Council (SCDC) and Waveney District Council (WDC).
- 1.2 As part of preparations of the creation of the ESC, a number of Member Working Groups (MWGs) were created to complete the work packages identified to achieve this. Membership of each MWG was drawn from Members of both councils.
- 1.3 The Constitution and Governance MWG (CGMWG) was set up to *‘Consider options and make recommendations for the new Council on the creation of a new constitution, associated procedures, protocols and committee structure.’*
- 1.4 A draft ESC Constitution, drawing on elements of the SCDC Constitution and the WDC Constitution, was formulated by the CGMWG. This included a Code of Good Practice for Members in Planning and Rights of Way (the Code). The Code can be found in Part 4 of the Council’s [Constitution](#), under “Codes and Protocols”, on pages 187-194.
- 1.5 The draft Constitution was adopted by the ESC’s Shadow Authority, subject to amendments, at its meeting on Monday 28 January 2019 (Report REP 29(SH) refers).
- 1.6 Part 2 of the ESC Constitution outlines functions and responsibilities. Paragraph 2.1 of Section B of this part of the Constitution details specific functions that are reserved for Council and states that one of these functions is changing the Constitution. In addition, Paragraph 10.3 of Part 1 of the Constitution states that the Audit and Governance Committee has responsibility to advise the Council on substantive changes to the Constitution.
- 1.7 As the Code is part of the Constitution, any proposed changes to it need to be considered and commented upon by the Audit and Governance Committee and approved by Full Council. Officers consider it to be appropriate that the Strategic Planning Committee also be consulted on any proposed changes.
- 1.8 It was accepted by the CGMWG and by the ESC’s Shadow Authority that the new Constitution would need to be reviewed, and that changes to it might be necessary, to suit the working practices of the new Council. This report considers one such review, and suggests some minor changes to the Code, as a result.

2 REVISIONS

- 2.1 Section 7 of the Code specifically deals with site visits undertaken by Members of the Planning Committees and is set out at Appendix A to this report.
- 2.2 The proposed changes to this section are indicated as the ‘tracked changes’ at Appendix B to this report.
- 2.3 The proposed amendments are minor in nature. They seek to ensure that site visits are purely factual meetings, provided to give Members a better understanding of a site, prior to the consideration by the Planning Committee of any application in relation to it.
- 2.4 It is considered that the Code as drafted, in paragraph 7.13 in particular, might suggest that site visits are public meetings, when they are not. What is in paragraph 7.13 does not reflect how site visits are conducted. Therefore, some amendments have been made to clarify this in the Code.

3 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

- 3.1 The Council's role as the local planning authority underpins key elements of the East Suffolk Business Plan. It relates to the prongs in the Business Plan about the economy, financial self-sufficiency and growth. The Council carries out its functions as the local planning authority via its Planning Committees which consider planning applications and the control of development. The control of development leads to policy compliant building and well-designed facilities for use by sustainable, thriving communities. This, in turn, supports a growing economy, whilst preserving the historic and natural environment of the district.
- 3.2 The operation of the Council's Planning Committees ensures that the Council operates properly as the local planning authority, in accordance with the law and good practice. The Code assists the good working of the Planning Committees. In this respect, it is important that the Code is up-to-date and reflects the Council's current practises, in order to safeguard the decision-making processes of the Planning Committees, and to ensure that its business aims are met.

4 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 4.1 The minor amendments to the Code will align it with existing best practice and will accurately reflect the procedures and arrangements which are currently in place and in operation.

5 OTHER KEY ISSUES

- 5.1 An Equality Impact Assessment was not considered necessary due to the minor changes proposed, and the fact that the changes are to the wording of the Code. The changes reflect how the Council actually runs its site visits, and so there are no substantive changes in practice taking place.

6 CONSULTATION

- 6.1 None required.

7 OTHER OPTIONS CONSIDERED

- 7.1 Not to make these proposed changes – giving rise to procedures set out in the Code which do not tie in with how site visits are actually run, and the continued impression that the site visits are public meetings.

8 REASON FOR RECOMMENDATION

- 8.1 To ensure that the Code reflects the procedures, processes and arrangements currently in place for site visits.

RECOMMENDATION

That the proposed amendments to the Code of Good Practice for Members – Planning and Rights of Way be considered and recommended for approval to the Audit and Governance Committee and Full Council.

APPENDICES	
Appendix A	Extract from the Council's Constitution-Part 4 Codes and Protocols, Section 7 of the Code of Good Practice for Members – Planning and Rights of Way
Appendix B	Proposed Changes to Section 7 of the Code of Good Practice for Members – Planning and Rights of Way (indicated in red by tracked changes)

BACKGROUND PAPERS		
<p>Please note that copies of background papers have not been published on the Council's website www.eastsuffolk.gov.uk but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.</p>		
Date	Type	Available From
11 November 2019	East Suffolk Council Constitution	http://www.eastsuffolk.gov.uk/assets/Your-Council/East-Suffolk-Council-Constitution.pdf
11 November 2019	Member Working Group (MWG) Terms of Reference & Project Initiation Document (PID) for the Constitution and Governance MWG	East Suffolk Council Democratic Services Team

Extracted from pages 192-193 of the East Suffolk Council Constitution

7 SITE VISITS

- 7.1 All sites are investigated by Officers as part of the application process. However, there may be circumstances when Members will wish to visit specific sites, for example, to understand local conditions and the relationship of a proposed development or rights of way proposal and the surrounding area, where these features cannot be assessed from the submitted drawings, illustrative material or from outside the site.
- 7.2 Formal site visits will be held when there is a clearly identified material benefit for holding one and the Planning Referral Panel agrees with the relevant Planning Officer that there is a need to do so to provide a better understanding of the proposals or Planning Committee so requests that a visit be held.
- 7.3 All Members of the relevant area Planning Committee (including substitutes who may attend at a subsequent meeting) will be invited to attend the site visit, together with the ward Member or ward Members. Where a proposal would have a significant effect on an adjoining ward, the adjoining ward Members will also be invited.
- 7.4 All Members attending formal site visits by the Planning Committee shall be accompanied by an appropriate Officer of the Council.
- 7.5 The site visit is not part of the consideration of the merits of an application and therefore public rights to attend the meeting do not apply. However, a representative of the town or parish council will be invited to the site visit along with the applicant or his / her agent.
- 7.6 If access to private land is necessary, then Officers will secure the prior agreement of the landowner.
- 7.7 The purpose of the site visit is fact finding. Officers will be able to point out relevant features of the site and surroundings. Members will be able to see the physical features of the site and ask questions through the Chairman or the Officer to seek clarification. A written record will be kept of the site visit and placed on the planning file.
- 7.8 No discussion of the merits of the case will be permitted, and all questions from Members will be carried out through the Chairman or, at the Chairman's discretion, directed at the relevant Officer.
- 7.9 The Chairman may ask the applicant (or agent), the representative of the town or parish council, or the owner on whose property the site visit is being conducted if there are any parts of the site that have not been visited that they consider should be seen by the Members. The Chairman will then determine as to whether to accede to any requests for that part of the site or area to be visited.
- 7.10 The visiting party will stay together as a group. No lobbying by applicants, town or parish council representatives or objectors will be allowed. If an applicant or group persists in attempting to lobby, the Chairman may determine to curtail the site visit and return on another occasion.
- 7.11 The Members of the Planning Committee, when on site visits, should not make any comments that could create an impression to an outside party that they had already formed a firm position on the merits of the application. The decision on the application should not be made until the formal meeting of the Planning Committee and the Members will have before them all the necessary information to be able to make an informed decision. There may be occasions when questions raised by Members have not been able to be answered or require further investigation in which event Officers will pursue these matters and report back on them to the Planning Committee.

7.12 Exceptionally, a Member of the Planning Committee may not be able to attend a site visit or may wish to see a site that is the subject of a report to the Committee. When visiting sites on their own, Members should normally seek only to view the site from a public area and should deal with any lobbying that may occur at the visit in accordance with Section 5 of this Code of Practice. Members may wish to seek advice before undertaking unaccompanied site visits that necessitate access to private property.

7.13 Any site meetings will follow these procedures:

- Relevant Officer will be invited to set out briefly
 - why it was resolved necessary to visit the site
 - the facts of the application
 - the views of consultees as relevant to the visit
- Any specialist advisers present (e.g. Highway Authority) will be invited to indicate their view of the proposals
- Chairman will invite the applicant/agent to explain any aspect of the application
- Town/Parish Council representative(s) as consultees will be invited to speak if they wish
- Ward Member will be invited to speak – to point out relevant features of the site or the surrounding area or to ask questions about the proposal
- Committee Members will be invited to ask questions
- Planning Officer will be given the opportunity to ask questions to seek clarification of any issues
- Any other person(s) present will be given the opportunity to speak
- Chairman will close discussion part of the proceedings and invite Members to inspect the site/the area in more detail
- The order of presentations will generally be adhered to but the Chairman will have the right to vary from these guidelines if circumstances warrant. The Chairman's decision will be final.

Extracted from pages 192-193 of the East Suffolk Council Constitution

7 SITE VISITS

- 7.1 All sites are investigated by Officers as part of the application process. However, there may be circumstances when Members will wish to visit specific sites, for example, to understand local conditions and the relationship of a proposed development or rights of way proposal and the surrounding area, where these features cannot be assessed from the submitted drawings, illustrative material or from outside the site.
- 7.2 Formal site visits will be held when there is a clearly identified material benefit for holding one and the Planning Referral Panel agrees with the relevant Planning Officer that there is a need to do so to provide a better understanding of the proposals or Planning Committee so requests that a visit be held.
- 7.3 All Members of the relevant area Planning Committee (including substitutes who may attend at a subsequent meeting) will be invited to attend the site visit, together with the ward Member or ward Members, representatives of the town or parish council(s), and the applicant or their agent. Where a proposal would have a significant effect on an adjoining ward, the adjoining ward Members will also be invited. Any technical experts will be invited if required.
- 7.4 All Members attending formal site visits by the Planning Committee shall be accompanied by an appropriate Officer of the Council.
- 7.5 The site visit is not part of the consideration of the merits of an application and therefore public rights to attend the meeting do not apply. ~~However, a representative of the town or parish council will be invited to the site visit along with the applicant or his / her agent.~~
- 7.6 If access to private land is necessary, then Officers will secure the prior agreement of the landowner for both Members, Officers and any third parties.
- 7.7 The purpose of the site visit is fact finding. Officers will be able to point out relevant features of the site and surroundings. Members will be able to see the physical features of the site and ask questions through the Chairman or the Officer to seek clarification. A written record will be kept of the site visit and placed on the planning file.
- 7.8 No discussion of the merits of the case will be permitted, and all questions from Members will be carried out through the Chairman or, at the Chairman's discretion, directed at the relevant Officer.
- 7.9 The Chairman may ask the applicant (or agent), the representative of the town or parish council, or the owner on whose property the site visit is being conducted if there are any parts of the site that have not been visited that they consider should be seen by the Members. The Chairman will then determine as to whether to accede to any requests for that part of the site or area to be visited.
- 7.10 The visiting party will stay together as a group. No lobbying by applicants, town or parish council representatives or objectors will be allowed. If an applicant or group persists in attempting to lobby, the Chairman may determine to curtail the site visit and return on another occasion.
- 7.11 The Members of the Planning Committee, when on site visits, should not make any comments that could create an impression to an outside party that they had already formed a firm position on the merits of the application. The decision on the application should not be made until the formal meeting of the Planning Committee and the Members will have before them all the necessary information to be able to make an informed decision. There may be occasions when questions raised by Members have not been able to be answered or require further investigation in which event Officers will pursue these matters and report back on them to the Planning Committee.

7.12 Exceptionally, a Member of the Planning Committee may not be able to attend a site visit or may wish to see a site that is the subject of a report to the Committee. When visiting sites on their own, Members should normally seek only to view the site from a public area and should deal with any lobbying that may occur at the visit in accordance with Section 5 of this Code of Practice. Members may wish to seek advice before undertaking unaccompanied site visits that necessitate access to private property.

7.13 Any site meetings will follow these procedures:

- The Planning Officer will make a verbal presentation of the application, the site and its context. Where appropriate Officers will have copies of relevant documentation to aid the visit to aid their presentation and the visit.
- Any questions that Members have regarding the site or the development will be made through the Chairman of the Committee only.
- There is no right for third parties to address the Committee unless at the specific request of the Chairman of the Committee.
- ~~Relevant Officer will be invited to set out briefly~~
 - ~~— why it was resolved necessary to visit the site~~
 - ~~— the facts of the application~~
 - ~~— the views of consultees as relevant to the visit~~
- ~~Any specialist advisers present (e.g. Highway Authority) will be invited to indicate their view of the proposals~~
- ~~Chairman will invite the applicant/agent to explain any aspect of the application~~
- ~~Town/Parish Council representative(s) as consultees will be invited to speak if they wish~~
- ~~Ward Member will be invited to speak — to point out relevant features of the site or the surrounding area or to ask questions about the proposal~~
- ~~Committee Members will be invited to ask questions~~
- ~~Planning Officer will be given the opportunity to ask questions to seek clarification of any issues~~
- ~~Any other person(s) present will be given the opportunity to speak~~
- ~~Chairman will close discussion part of the proceedings and invite Members to inspect the site/the area in more detail~~
- ~~The order of presentations will generally be adhered to but the Chairman will have the right to vary from these guidelines if circumstances warrant. The Chairman's decision will be final.~~