

Planning and Building Control

July Update during Covid –19



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“Welcome to our fourth newsletter keeping you all updated on the work of the Planning and Building control teams at East Suffolk Council. I hope this newsletter finds you all in good health and spirits. The council teams have been working successfully away from the office and continue to deliver excellent service to all our customers. Innovation in the teams is great to see and it has been good for me to join many meetings on various platforms to be briefed by officers on all the services and activities I am responsible for. Please consider the information contained in this newsletter and use the links and other contact details if you require any further information’.

Cllr David Ritchie

Cabinet Member for Planning and Coastal Management for East Suffolk Council

“ The newsletter provides an update on the activities taking place in the Planning and Building Control teams including some reference to changes being introduced at a national level having regard to the Covid 19 emergency. The approach we have taken, and will continue to take, is to seek to work with all parties to ensure we can help communities and businesses deliver for our residents and sustain and enhance our economy whilst maintaining the many qualities our area possesses. The government has introduced some changes to legislation, which are referred to in this newsletter, but many will also have noted the references in the recent Prime Minister’s speech to seek to “improve” the planning system as part of Project Speed and “build, build, build”. The details of any proposed changes are yet to emerge but the comments do cause me some concern as to how we can balance the need for speed against the legitimate challenges of balancing the many considerations that need to be fully and properly taken in to account to deliver quality developments. We will await with interest the White Paper that is likely to be published in the Autumn to ascertain the government’s proposals”.

Philip Ridley BSc(Hons) MRTPI

Head of Planning and Coastal Management

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Planning Policy and Delivery

Suffolk Coastal Local Plan Update

Further to the article in the June Newsletter, the consultation on proposed Main Modifications, undertaken as part of the Examination of the Suffolk Coastal Local Plan, has now closed (5pm on Friday 10th July). Responses received have now been passed to the Inspector for his consideration. All going well, the Inspector's Report is expected in August and the Local Plan, as modified, will then be presented to Cabinet followed by Full Council for adoption in September. To find out more go to www.eastsuffolk.gov.uk/localplanexamination.

Preparation of single CIL Charging Schedule for East Suffolk

The Community Infrastructure Levy (CIL) was introduced in the former Waveney area in 2013, and the former Suffolk Coastal area in 2015. Both CIL Charging Schedules (which set the rate of CIL for different development types) are therefore now a few years old and it is good practice to review CIL rates regularly to ensure that they are up-to-date. In addition, there have been some more significant changes to the national CIL Regulations and legislation, requiring the annual publication of Infrastructure Funding Statements. When taken with the formation of East Suffolk Council in 2019, this means that now is a sensible time to prepare a single CIL Charging Schedule for the whole of East Suffolk.

The Council has commissioned consultancy Aspinall Verdi, who prepared the Viability Assessments that underpin the adopted Waveney Local Plan and the Suffolk Coastal Local Plan (which is approaching the end of its examination), to prepare a Viability Assessment to underpin the draft East Suffolk CIL Charging Schedule. There will be consultation on the draft CIL Charging Schedule, including a formal period of consultation, in autumn 2020, to be followed by independent examination and then adoption. The Council's website <https://www.eastsuffolk.gov.uk/planning/developer-contributions/community-infrastructure-levy/> will be updated shortly with more information on the timetable.

CIL Deferral Requests

The Draft changes to the CIL Legislation confirm that developers should only approach the Council to request deferral of CIL payments if the payment of CIL is due within the next 14 days. Evidence to support the £45m turnover threshold is met should also be provided. This does not guarantee deferral of CIL payment and this remains at the discretion of the Council. Requests should be made via email to CIL@eastsuffolk.gov.uk

Neighbourhood CIL - Reminders

All Town and Parish Councils must ensure that they spend their Neighbourhood CIL funding in accordance with Regulation 59c of the CIL Regulations 2010 (as amended):

- **The provision, improvement, replacement, operation or maintenance of infrastructure; or**
- **Anything else that is concerned with addressing the demands that development places on an area.**

CIL **must** be spent within 5 years of the date of receipt otherwise it must be returned to East Suffolk. This requirement is detailed within Regulation 59e of the CIL Regulations. East Suffolk Council may serve a notice on the town or parish council requiring it to repay some or all of the Neighbourhood CIL receipts that this regulation applies to, including any Neighbourhood CIL not spent in accordance with Regulation 59c (as detailed above in bold).

Each year the Town or Parish Councils must produce a report on their Neighbourhood CIL. The content of the report is detailed within the CIL Regulations and this was updated in September 2019. A new template has been placed on the CIL Parish support webpage for your use. You must send a copy of the completed (signed off) report to CIL@eastsuffolk.gov.uk and must place a copy of it on your webpages alongside your other financial annual reports. The deadline for publishing CIL reports on your website is 31 December. If you have not sent previous CIL financial reports to CIL@eastsuffolk.gov.uk please ensure you send these through as soon as possible.

If you have any questions please contact the Planning Policy and Delivery Team on: planningpolicy@eastsuffolk.gov.uk or 01394 444557. Please note if contacting us by phone, we are currently operating under a voicemail service. Please leave a message including your contact details and your call will be returned as soon as possible.

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Planning Applications and Support

Business and Planning Bill 2019 -2021

The government has introduced the Business and Planning Bill which, amongst other things, deals with extensions to time limits on certain planning applications and construction working hours. The document is available for viewing via the following link:

<https://www.gov.uk/government/collections/draft-planning-guidance-to-support-the-business-and-planning-bill>

The Bill is draft guidance at present, having had its second reading in the House of Lords on the 6 July 2020. It is due to be heard at the House of Lords Committee stage on the 13 July 2020 and if successful, it will have a third reading at the House of Lords before receiving royal assent. No date is yet scheduled for the royal assent, but its progress can be tracked via the following website:

<https://services.parliament.uk/bills/2019-21/businessandplanning.html>

There are the following key issues considered in the Bill:

Extensions of Time Limits:

The Business and Planning Act 2020 temporarily modifies the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 to enable certain planning permissions and listed building consents in England which have lapsed or are due to lapse during 2020 to be extended.

This is in recognition of the effect coronavirus has had on the planning system and the construction sector and in particular the delays it has caused to the commencement of new development. This extension will allow the commencement of the planning permissions and listed building consents without the need for a new application.

Which planning permissions are extended:

Under section 93A of the Town and Country Planning Act 1990, unimplemented planning permissions (both outline and reserved matters application) with time limits for implementation which were due to lapse between [28 days after royal assent] (when the provisions came into force) and 31 December 2020 are extended to 1 April 2021. This happens automatically, with no requirement to obtain Additional Environmental Approval.

In addition, unimplemented planning permissions with time limits for implementation which passed between 23 March 2020 and [28 days after royal assent] are also restored and the time limit extended to 1 April 2021, subject to Additional Environmental Approval being granted. Further details of the Additional Environmental Approval process (this is set out below).

All listed building consents with a time limit for implementation between 23 March 2020 and 31 December 2020 will be extended to 1 April 2021. Listed building consents will not be subject to a requirement to obtain Additional Environmental Approval.

What does an applicant need to do for permissions or consent which are due to lapse between [28 days after royal assent] and 31 December 2020?

These time limits will be extended automatically to 1 April 2021. The applicant will not be required to take any further action in order for this to take effect.

How can an applicant confirm that permission or consent has been extended?

Should an applicant want written confirmation of the extension to the commencement date, they should contact the relevant local planning authority to which the permission relates.

East Suffolk Council will work constructively with the applicant to provide written confirmation of the extension to the commencement date and aim to provide a response as quickly as possible so that applicants have the certainty to carry out development lawfully. This communication will be stored on the public website as a record of such confirmation.

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In cases of doubt, an applicant may apply for a certificate of lawfulness of proposed development under section 192 of the Town and Country Planning Act 1990.

When is an Additional Environmental Approval required?

A planning permission with a time limit for implementation between 23 March 2020 and [28 days after royal assent] will only benefit from the statutory extension to 1 April 2021 where Additional Environmental Approval is granted by the local planning authority (or deemed to be granted). An application for Additional Environmental Approval can be made by or on behalf of any person with an interest in the land to which the relevant planning permission relates and there is no fee required for such a submission payable to the local planning authority.

There is no prescribed form for such applications, but they must be made in writing and submitted electronically to the relevant local planning authority (these should be submitted to: planning@eastsoffolk.gov.uk quoting the application reference number and/or application site address). Once received, the applicant will receive formal confirmation of receipt with details of the appointed case officer.

The application must specify the date which it has been sent and provide sufficient information to allow the local planning authority:

- To identify the relevant planning permission and condition in respect of which it is made; and
- To determine whether Additional Environmental Approval should be granted

Applicants should provide details of:

- The planning permission to which the application relates
- The condition (s) which set out the time limit (s) for implementation
- Any condition (s) or other agreements which relate to environmental mitigation or enhancement measures
- Whether the original permission was subject to an Environmental Impact Assessment and/or a Habitats Regulation Assessment, or screening for either type of assessment

If the original planning permission was subject to one or both of these assessments, or screening for either, applicants should also provide details of:

- The original assessment (s) or screening (s) and a summary of the key findings
- Information on any mitigation measures secured to address environmental effects, and the progress toward delivering these measures
- An environmental report containing a reasoned explanation of why in the applicant's view there have been no changes to environmental circumstances which would make the original screening or assessment out of date. For example, it may be appropriate to include:
 - an analysis of any further committed development proposals which may affect the assessment of cumulative effects, and why in the applicant's view this does not make the original assessment out of date
 - a description of any changes to the factual circumstances of the proposed development, such as a new environmental designation, new environmental information or other changes of circumstance, and an analysis of why in the applicant's view this does not make the original assessment out of date
- Any other relevant information which would in the applicant's view support the case that the previous screenings or assessments remain up to date.

If the original planning permission was granted without the need for an Environmental Impact Assessment or a Habitats Regulations Assessment, applicants should provide a brief explanation of why they consider it remains the case that neither of these assessments would be needed if an application for planning permission was being made now.

If the original planning permission was granted without the need for screening for an Environmental Impact Assessment or a Habitats Regulations Assessment, but an applicant thinks that screening might be needed if an application for planning permission was being made now and that the screening would show that no substantive assessment was required, then it should provide sufficient information to enable the authority to undertake screening within the 28-day period, although this timescale can be agreed mutually through the use of an Extension of Time.

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If a decision is not reached within the 28-day period, or as may be extended through an extension of time, the Additional Environmental Assessment is deemed to be granted. If the local planning authority is in doubt and the matters cannot be properly considered within the appropriate timescale the application will be refused so that there is no deemed grant of approval.

It is therefore prudent that any application seeks to maintain regular dialogue with the appointed case officer to ensure that all the appropriate information has been received. The case officer will however make contact with the applicant explaining why the submission does not comply with the legislation and explain that such application cannot be entertained unless the appropriate information is forthcoming. The determination date in such instances will run from the date that the additional information has been received.

The responsibility lies with applicants to ensure that all material which is likely to be relevant is included within the application for Additional Environmental Approval. All applicants are encouraged to consider using the paid for pre-application service at the Council to address any specific or complex issues prior to submitting a formal application.

Further substantive information should not be submitted during the determination period. The local planning authority is entitled to sufficient information at the start of the 28-day period. If during the determination period it becomes apparent that the local planning authority cannot determine whether the EIA and Habitats requirements are met without further substantive information from the applicant, the authority is able refuse Additional Environmental Approval. An applicant may then make a new application for Additional Environmental Approval containing further information so that the authority can deal with it in a fresh 28-day period.

The applicant is entitled to appeal against a refusal, but it is important to note that as there is deemed consent in place, there is no right of appeal against non-determination.

The legislation does not require local planning authorities to undertake any specific consultation, or undertake any publicity, although we may seek to engage with any party with appropriate expertise to enable a decision to be made. The formal decision will be recorded on the Councils website.

Construction Working Hours

The aim of the new temporary fast track deemed consent route under section 74B of the Town and Country Planning Act 1990 is to enable urgent changes to construction working hours to support safe construction working in line with the government's latest social distancing guidance on construction and other outdoor work. For many construction sites, implementation of this guidance will require changes to working practices, including staggered starts and finishes, requiring different hours of operation to those which are currently permitted for the site through planning conditions.

Section 74B of the Town and Country Planning Act 1990 provides a temporary, fast track deemed consent route for developers to apply to local planning authorities to vary existing conditions, or the details submitted under a condition, that limit construction site working hours. Local authorities have 14 calendar days to consider such applications, excluding bank holidays). There is no fee required for such application. If an application is not determined within this time period then the application has deemed consent. Once approved the amended construction hours will run automatically until 1 April 2021, unless an earlier date has been requested by the applicant.

In their formal submission applicants will need to provide details of:

- the planning permission to which the application relates
- the existing agreed construction working hours
- details to identify the condition or approved document such as construction management plan which details the working hours
- the proposed revised construction working hours
- the date the revised construction working hours should take effect
- the date on which the application is sent
- the date on which the revised construction working hours should cease to have effect (no later than 1st April 2021)

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To aid swift decision making, applicants should also provide:

- a short justification on why extended hours are necessary to enable safe working practices on site
- details of their mitigation plan as set out below.

Note applications can only be made online. Please ensure that all submissions are made to planning@eastsoffolk.gov.uk quoting the address and application reference. Once received you will receive formal notification of such and details of the case officer responsible for handling the matter. The local planning authority will prioritise such applications to ensure that decisions are made within 14 days.

In advance of submission it is strongly advised that any applicant engages proactively and collaboratively with local communities and the relevant town or parish council and ward member and follow good working practice at all times. There is no requirement for the local planning authority to publicise or consult on such applications.

Proactive Planning Enforcement and Temporary Structures

The Council has produced guidance to deal with temporary structures to enable businesses to remain operational whilst also complying with social distancing rules. The Council's approach to the enforcement of these structures can be found at the following link:

<https://www.eastsuffolk.gov.uk/planning/covid-19-updates/>

Recreational Disturbance Avoidance Mitigation Strategy (RAMS)

Regulation 63 of the Conservation of Habitats and Species Regulations (2017) (as amended) requires that the council, as a competent authority under the regulations, must undertake an Appropriate Assessment before giving any consent, permission or other authorisation for a plan or project which is likely to have a significant effect on a European site (Habitats site). This requirement applies to all types of planning application, including those for Reserved Matters and Variation of Condition. In East Suffolk it has been identified that new residential development within 13km of European sites will contribute to an in-combination recreational pressure which will result in an adverse effect on the integrity of these sites. To mitigate this, the council, in partnership with Ipswich Borough Council and Babergh and Mid Suffolk District Councils, has developed the Suffolk Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). Developers can mitigate the in-combination impact from their development via a financial contribution to the strategy. Because the requirements of the Habitats Regulations apply to the granting of all types of permissions, developments which were granted Outline permission prior to the existence of RAMS will need to be subject to a new Habitats Regulations Assessment (HRA) on the submission of Reserved Matters applications. Therefore, in order to comply with the requirements of the Habitats Regulations, financial contributions to RAMS will be requested at Reserved Matters application stage for eligible developments which did not make a contribution at the Outline stage. Also, as applications to vary conditions create a new consent they must also be subject to HRA consideration and RAMS contributions will be requested for eligible developments where a contribution was not made for the original permission.

General Matters

The Development Management Team remain committed to working proactively and collaboratively with all our customers, albeit remotely. The team are undertaking some site visits, although these are being screened in all instances to ensure that the health and safety of all staff and customers can be secured in all instances. This is being monitored and reviewed on a weekly basis.

If there are any issues that you wish to discuss please do not hesitate to contact Liz Beighton, Planning Manager, on 01394 444778 or liz.beighton@eastsoffolk.gov.uk.

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Coastal Management

Once in a century opportunity for Lowestoft secured

East Suffolk Council is celebrating an incredible award of over £43 million by the Government - a 'once in a century' opportunity to deliver tidal flood walls and a tidal barrier to protect and safeguard the future of Lowestoft.

It is the largest single award to any scheme in the country, as part of an immediate £170 million pot for national flood protection projects which can get underway by 2021. The Lowestoft scheme will provide certainty for the prospects of the town, galvanising its huge economic potential and heralding a bright and secure future for residents and businesses.

East Suffolk Council has a transformative regeneration plan in place for Lowestoft, however flood risk has constrained economic growth in the town damaging the viability of key regeneration sites as well as threatening 825 businesses and hundreds more homes. However, the Lowestoft Flood Risk Management Programme (LFRMP) which has been seeking the funding it needs to proceed has now been given the green light, with a financial boost that will unlock multiple local and national growth opportunities. The scheme will significantly reduce the risk to economic activity, jobs, utilities, key infrastructure and energy operations for 100 years.

Work will begin in autumn this year with construction of the tidal flood walls.



Energy Projects

Energy Projects Update

Sizewell C New Nuclear Power Station;

The application for development consent was submitted by EDF Energy to the Planning Inspectorate on the 27 May 2020, on the 24 June 2020 it was accepted.

On the 8 July 2020 the section 56 engagement period began and the ability to register as an Interested Party on the Planning Inspectorate website was opened. Anyone who wants to take part in the later Examination must register as an Interested Party and submit a Relevant Representation detailing their issues /concerns in relation to the proposal for consideration during the Examination. All of the documentation for the DCO is available on the Planning Inspectorate website (<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/the-sizewell-c-project/?ipcsection=overview>) and on EDF Energy's dedicated DCO webpages (<https://sizewellcdco.co.uk/view-documents/>). The closing date for registering as an Interested party is the 30 September 2020.

Staff at ESC are currently reviewing the DCO documentation in order to inform our Relevant Representation, if you have any questions for the team or would like to share with us your thoughts on EDF Energy's proposals then please email us at: sizewellc@eastssuffolk.gov.uk

East Anglia One North and East Anglia Two:

The Preliminary meeting for the East Anglia One North and East Anglia Two Offshore windfarms which was postponed in March has been set for the 16 September 2020 with a further date of the 6 October 2020 reserved in case matters that need to be discussed are not all covered on the 16 September. The six month Examination period will begin following the close of the Preliminary meeting (to be held jointly for both projects). The letters can be read in full on the Planning Inspectorate website at: <https://infrastructure.planninginspectorate.gov.uk/projects/Eastern/East-Anglia-ONE-North-Offshore-Windfarm/> (East Anglia One North) and <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/east-anglia-two-offshore-windfarm/> (East Anglia Two). The proposal is for the Examination to be progressed initially using virtual techniques but the Examining Authority remain flexible, and should public health requirements allow, there is the option of holding physical events in the future. The Rule 6 letters includes the draft timetable for the examination and lists the principal issues.



In the event that Development Consent Orders are granted for East Anglia One North and East Anglia Two Offshore Wind Farms, Scottish Power Renewables plans to deliver these projects alongside East Anglia Three Offshore Wind Farm, consented in 2017, as part of the East Anglia Hub concept.

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Building Control

LABC Building Excellence Awards

The LABC Building Excellence Awards are operated by the governing body for Local Authority Building Control nationally and these awards are entered by every local authority across the UK. The 11 categories cover all types of projects across residential and commercial and also include personal awards for builders and professionals in construction. They are a great way to promote the work that Building Control does as well as cement relationships with clients who chose to use us over Private Building Control.

This year East Suffolk Council Building Control once again submitted an amazing selection of projects to the Building Excellence Awards not anticipating what was to come with COVID 19. LABC of course had to cancel the celebrations but due to the high standard of entries and the work involved in submitting them they have decided to still honour this and celebrate them digitally.

Excitingly we have once again had great success and below is a table of the shortlisted projects. Congratulations to our customers for being shortlisted and we await with anticipation the winners announcement on 3rd September.

Category	Name of entry
Best partnership with a local authority building control team	Studio 35
Best Local Builder or Traditional Craftsperson	Chapel Properties
Best New Dwelling	Littlewood, Hollesley
Best High Volume New Housing Development	The Winerack, Ipswich
Best High Volume New Housing Development	The Nest, Aldeburgh, Suffolk
Best Social or Affordable New Housing Development	The Old Gospel Hall, Ipswich
Best Social or Affordable New Housing Development	Bluebells, Reydon, Suffolk
Best Small Commercial Project	Martley Hall Equestrian Centre, Easton, Suffolk
Best Large Commercial Project	The Winerack, Ipswich
LABC Construction Professional of the Year	Jamie Tennant, Wellington Construction

