

AGENDA

POLICY DEVELOPMENT AND REVIEW COMMITTEE MEETING

Date: Wednesday, 22 July 2015

Time: 7.00 pm

Venue: Council Chamber - Swale House

Membership:

Councillors Mike Baldock, Monique Bonney, Andy Booth (Vice-Chairman), Lloyd Bowen (Chairman), Katy Coleman, Alan Horton, James Hunt, Peter Marchington, George Samuel, Ben Stokes and Roger Truelove.

Quorum = 3

	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 3 June 2015 (Minute Nos. 41 – 44) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.	
(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.	
Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the	

Meeting.

Part One - Substantive Items

4. Planning Enforcement Charter and Strategy 1 - 18

The Committee is asked to consider the report. The Cabinet Member for Planning has been invited to attend the meeting.

Part Two - Business Items

5. Committee Work Programme 19 - 22

The Committee is asked to review and discuss the Committee's Work Programme (attached) for the remainder of the year.

Issued on Monday, 13 July 2015

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Director of Corporate Services Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Policy Development and Review Committee Meeting	
Meeting Date	22 July 2015
Report Title	Planning Enforcement Service Review
Cabinet Member	Cllr Gerry Lewin, Cabinet Member for Planning
SMT Lead	Pete Raine
Head of Service	James Freeman
Lead Officer	James Freeman
Key Decision	No
Classification	Open
Forward Plan	Reference number:
Recommendations	<ol style="list-style-type: none"> 1. To agree the Draft Planning Enforcement Strategy and Charter for consultation with members and Town / Parish Councils; 2. To agree the proposed changes to decision making as set out in paragraphs 3.1 to 3.5, and to refer these matters to the General Purposes Committee with a view to amending the constitution accordingly; 3. Agree to the proposed approach to performance and case monitoring reporting as set out in paragraphs 3.6 to 3.9; and 4. Note the intention to bring forward operational structure changes to Planning Services in order to provide a more resilient and responsive Planning Enforcement service

1 Purpose of Report and Executive Summary

- 1.1 The purpose of this report is to set out the outcome of a review of the Council's Planning Enforcement Strategy and Charter and the Planning Enforcement Service.

2 Background

- 2.1 At its meeting on 15 October 2014, this Committee agreed the scope for undertaking a review of the Council's Planning Enforcement Strategy and Charter and the Planning Enforcement Service.

- 2.2 The main elements of the review was to include:

- a review of the Planning Enforcement Strategy and Charter;
- how the service is provided – particularly the links with the Development Management Officers and Legal Services and other key service areas;

- the processes and procedures for dealing with and agreeing action – particularly in liaison with Ward Members / Cabinet Member for Planning/ the Planning Committee Chair, and a review of the delegations;
 - the transparency of case monitoring with members and the public (noting the need for legal confidentiality); and
 - the monitoring of the performance of the service – opportunities for introducing new Performance Indicators (PIs) which look at the whole life of an active enforcement case.
- 2.3 The review has included a benchmarking comparison in terms of performance against Swale’s neighbouring and ‘family’ Local Authorities, joint member/officer visits to other LPA enforcement services, and a Peer Review undertaken by the Head of Planning and Development Services at Maidstone Borough Council.
- 2.4 It was originally intended that the refreshed Strategy and Charter would be circulated to Parish Councils and members before being presented to this Committee. However, it is considered both expedient and appropriate for this Committee to consider its views on a draft document before it is circulated for consultation.

3 Proposals

Planning Enforcement Strategy and Charter

- 3.1 A draft Planning Enforcement Strategy and Charter is attached in Appendix I. The drafting has taken on board key issues identified by members of this Committee at its last meeting including:
- a more streamlined document focussing on key service issues;
 - clarification of priorities;
 - review of how complaints should be made and handled;
 - setting out how the Council would resolve the issues involved;
 - how decisions are made and Member involvement in those decisions; and
 - a review of performance indicators to take account of the time taken to confirm with complainants what action is to be taken.
- 3.2 Any views of the Committee are welcomed in finalising the document. It is intended that the document will be circulated to all Town and Parish Councils and Members for comment during September. Should the Council receive representations which request significant changes to be made to the document, it will be referred to the Cabinet to consider for formal adoption.
- 3.3 There are no proposed changes to the current priorities as set out in the new Strategy in Section 2 para 2.5. It was found that these priorities tended to reflect those that other LPAs had applied, and the officer review does not

suggest any changes. However, members may wish to review and discuss at the meeting.

Decision making

- 3.4 Appendix II sets out a flow chart for establishing how decisions will be made and where members will be involved. The proposal is that where officers have determined that enforcement action is appropriate, then that is actioned through sign off by Head of Planning / Development Manager. Where officers are recommending that no action be taken, the case is referred to a panel of members consisting of the Planning Committee Chair, Cabinet Member for Planning and the Ward Member(s) to consider whether they would wish to refer the case to the Planning Committee to determine whether enforcement action should be taken. This should have the benefit of engaging members much sooner with an enforcement complaint and enable officers to take action expeditiously rather than waiting for a Planning Committee meeting to take a formal decision.
- 3.5 Should the above proposal be agreed, the matter would need to be referred to the General Purposes Committee to amend the constitution and to remove the need to report all Enforcement items to agree action.

Case Monitoring

- 3.6 Discussions have been ongoing with Mid Kent IT with a view to:
- Restarting the monthly reports by ward member(s) of new complaints received; and
 - Enabling members to interrogate the case database system through a link via UNIFORM system to view progress on planning enforcement cases whilst maintaining confidentiality to complainants as legally required.
- 3.7 It is anticipated that these ongoing reporting and monitoring facilities should be in place by early August 2015, and a demonstration of how it is proposed to work will be presented at the meeting.

Performance monitoring

- 3.8 The Cabinet has recently agreed to amend the key performance indicators for the Planning Enforcement Service to monitor the proportion of complaints responded to within 21 days of receipt, which will include the site visit. Appendix III sets out the most recent performance against this PI.
- 3.9 Whilst the above change provides a monitor PI looking beyond the initial site visit by an officer, it by no means represents the whole life span of a major enforcement case. It has not been possible to determine an appropriate measure for setting a target by which a case should be closed given that each case has to be dealt with on its own merits.

- 3.10 However, it is proposed that regular reporting of active cases of more than six months' duration should be reported to the Cabinet Member for Planning on a quarterly basis, setting out current status and dates for next steps.
- 3.11 The Planning Committee will also receive updates on a six-monthly basis on the progress of all enforcement actions agreed as already in place. Should the above be agreed, this would be the only reporting of planning enforcement cases apart from those cases formally referred to the Committee via the Panel.

Operational Changes

- 3.12 Following the site visits (see Appendix IV) and the Peer Review (see Appendix V), it is proposed that the current Planning Enforcement Section be integrated with the Development Management Team. This proposal reflects the current difficulties in recruiting experienced and knowledgeable officers and the potential short to medium changes within the current team.
- 3.13 Additionally, it is considered that such integration will have the benefit of having senior planning officers having responsibility for planning enforcement engagement and decision making, which in turn should further improve co-ordination and responsiveness to cases.
- 3.14 However, as members are aware, given the uncertainties surrounding the outcome of the Mid Kent Planning Support review, which will not be completed until October / November this year, I do not intend to progress any Planning Enforcement restructure until there is clarity over any wider team structure changes and their related programmes.

4 Alternative Options

- 4.1 The package of proposals represent major changes by which the Planning Enforcement Service is operated and governed, and involves service structure change. One option is not to progress any change and carry on as is. However, this is not recommended given the need to engage with members at a much earlier phase in an enforcement case, the ICT opportunities that the new UNIFORM system provides, and the need to anticipate the future recruitment difficulties in maintaining the current team structure.

5 Consultation Undertaken or Proposed

- 5.1 This report has been drafted taking into account views expressed at the Policy Development and Review Committee in establishing the scope of the review and the views of the Cabinet Member for Planning.
- 5.2 Further consultation will take place with members and Town/Parish Councils regarding the draft Planning Enforcement Strategy and Charter.

6 Implications

Issue	Implications
Corporate Plan	Providing an effective and robust Planning Enforcement Service will play a role across all three priority themes in protecting the environment, ensuring compliance with planning regulations, and presenting an open for business operation.
Financial, Resource and Property	At this stage there are no identified significant financial implications arising from the proposals. However, any team structure changes will need to be considered within the context of the Planning Service's budget.
Legal and Statutory	The Strategy has been produced in accordance with planning legislation and government guidance.
Crime and Disorder	None identified at this stage
Sustainability	None identified at this stage
Health and Wellbeing	None identified at this stage
Risk Management and Health and Safety	Any revised operational structure would be brought forward with a view to reducing resilience exposure of the service given the current professional market situation.
Equality and Diversity	None identified at this stage'

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Planning Enforcement Strategy and Charter July 2015
- Appendix II: Flow chart of process for dealing with breach of planning control
- Appendix III: Planning Enforcement Service Performance Review
- Appendix IV: Planning Enforcement Local Authority Visits Report
- Appendix V: Peer Review Summary

8 Background Papers

8.1 None.

SWALE BOROUGH COUNCIL: A STRATEGY AND SERVICE CHARTER FOR PLANNING ENFORCEMENT 2015

1. Introduction

- 1.1 Swale Borough is a diverse area with distinctive towns and villages set in downland, farmland and coast. There are significant areas of the natural and built environment that are protected. Within the built environment there are over 1,500 listed buildings and 50 conservation areas and numerous buildings of heritage value. Large areas of the Borough are designated as part of the High Weald Area of Outstanding Natural Beauty, and other areas are internationally recognised designations in relation to protecting wildlife/ecology.
- 1.2 There is increasing public concern about activities that harm the local environment and damage the quality of people's lives. The Council recognises that planning enforcement underpins the Council's corporate priorities, particularly in relation to being 'a Borough to be proud of' and the priority for protecting and improving the natural and built environments.
- 1.3 The Planning Enforcement Service must demonstrate at all times that it deals with cases in an equitable and consistent manner, and this Strategy has been prepared in the light of paragraph 207 of the National Planning Policy Framework 2012 which states:
- 'Effective enforcement is important as a means of maintaining 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. Local Planning Authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way which is appropriate for 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 it is appropriate to do so'.**
- 1.4 Consideration has also been given to the requirements of the Equality Act 2010 and the Human Rights Act 1998. (See also 3.1)
- 1.5 The enforcement powers available to the Local Planning Authority are predominantly contained within the Town and Country Planning Act 1990 (as amended), the Planning and Compensation Act 1991, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Anti-Social Behaviour Act 2003 (in relation to high hedges), and the various and numerous subordinate legislation (i.e. Regulations and Orders) which are governed by those Acts. Policy advice is contained within Planning Practice Guidance entitled "Ensuring Effective Enforcement", and supports the National Planning Policy Framework (NPPF).
- 1.6 The strategy identifies the resources and matches these with local priorities for action, in order to tackle the most serious planning enforcement problems that arise in the area. To do this, the Council will follow government advice and concentrate its resources on clearly defined priorities for action and promote a proactive regime where possible. Therefore, the aims of the Planning Enforcement Service are to:

- be effective in dealing with breaches of planning control giving rise to unacceptable harm on public amenity and/or causing harm to land or buildings;
- limit resources used in pursuing minor breaches causing no harm to amenity;
- resolve most complaints by persuasion and negotiation – however, when this is not possible then the Planning Enforcement Service has the power to commence enforcement actions;
- operate in an equitable, proportionate and consistent manner and follow the advice in the Good Practice Guide for Local Planning Authorities; and
- educate and inform stakeholders about the process, standards of service, procedures, and provide widely available information to all customers.

2. Prioritising and carrying out investigations into alleged breaches of planning control

- 2.1 Currently, the Planning Enforcement Service is managed by the Development Manager and comprises a small specialist team of 2.3 FTE officers, together with support from other teams within Planning Services including Development Management officers, Conservation/Design officers, and the Council's tree consultant. The Service also works closely with legal officers (at Mid Kent Legal Services) as required. A full review of the Service and its resourcing is being undertaken in parallel with consultation on this Strategy and Charter, with a particular focus to ensure that the long term resilience of the Service is maintained.
- 2.2 The majority of complaints received relate to minor matters and often arise from neighbour disputes. Examples of these are small extensions and outbuildings erected under permitted development rights which do not require planning permission. Considerable officer time is taken up in investigating these, visiting the site and checking dimensions, and then reporting back to the parties involved.
- 2.3 Similarly, a large number of complaints concern unauthorised development that is acceptable and can be regularised by the submission of a retrospective planning application. A great deal of officer time is spent chasing such applications and any fees derived from the submission of an eventual planning application would not, in most cases, recover the enforcement costs involved. Therefore, whilst the Council has a duty to investigate all alleged breaches, the resources must be used wisely to allow officers to concentrate on serious breaches and to avoid the Local Planning Authority coming into disrepute through abuse of its enforcement powers, rather than pursuing enforcement action against minor breaches that cause no harm to public amenity.
- 2.4 The Council accepts that a rapid initiation of enforcement action is vital to prevent a serious breach of planning control from becoming well established and more difficult to remedy. It also recognises the need of establishing effective controls over unauthorised development. The Council will not condone wilful breaches of planning control, and will exercise its discretion to take enforcement action if it is expedient to do so.
- 2.5 The Council will investigate alleged breaches of planning control to determine whether a breach has occurred and if it has, to determine the most appropriate course of action by:
- paying due regard to Development Plan policies and to all other material considerations;
 - paying due regard to Government guidance and legislation;

- not taking action against trivial or minor technical breaches of planning control which do not adversely affect public amenity or causes harm to land or buildings;
- where action is necessary in the public interest, ensuring that appropriate actions are being taken in parallel with negotiations with the individual / organisations breaching planning control;
- not taking action solely to regularise development or obtain a fee; and
- taking account of the Human Rights Act 1998.

2.6 In order to deal effectively with the large number of allegations about breaches of planning control, it is proposed that cases are given priority based on the seriousness of the breach as set below. This is neither an exhaustive nor conclusive list. Matters will be dealt with and assessed on a case by cases basis, based on the information provided to the Council:

A – Major	First site visit within two working days of receipt of complaint
	<ul style="list-style-type: none"> ▪ Works that are irreversible or irreplaceable and constitute a serious breach ▪ Demolition of listing building ▪ Breaches of Article 4 Direction ▪ Unauthorised development in conservation area, Special Protection Area, Area of Outstanding Natural Beauty, or other national landscape designations ▪ Injunction proceedings ▪ The felling of trees covered by a TPO or works to trees in conservation areas ▪ Siting of caravan or mobile home for residential purposes
B – Medium	First site visit within five working days of receipt of complaint
	<ul style="list-style-type: none"> ▪ Activities that cause harm to residential amenity ▪ Change of use ▪ Breach of condition (depends on seriousness of the breach) ▪ Non-compliance with plans ▪ Non-detrimental works to a listed building ▪ Non-compliance with enforcement/stop notice ▪ Unauthorised works to a listed building
C – Minor	Site visit within ten working days of receipt of complaint
	<ul style="list-style-type: none"> ▪ A-boards on private land ▪ Sheds ▪ Means of enclosure ▪ Dropped kerbs ▪ Satellite dishes ▪ Minor operations ▪ Any low impact to residential amenity ▪ Unauthorised Adverts

- 2.7 After the first site visit (and also during the investigation process) the investigating officer will consider whether it is necessary to re-consider the prioritisation of the complaint.
- 2.8 Given the limited resources available to deal with planning enforcement issues, the focus of the Service will be dealing with complaints and consequential enforcement actions arising.

3. Customer Charter

- 3.1 The Planning Enforcement Service is to be provided in accordance with the Government's Enforcement Concordat.

Standards	Publish standards and the Service's performance against them
Openness	Give advice and information in plain language
Helpfulness	Believe prevention is better than cure, so actively work to assist compliance, whilst providing a courteous and efficient service
Complaints	Have a well publicised, effective and timely complaints procedure
Proportionality	Any action taken will be commensurate with the seriousness of the breach
Consistency	Carry out duties in a fair, equitable and consistent manner

How to make a complaint /raise a concern

- 3.2 Most investigations result from information from the public, Councillors, Parish and Town Councils, and other interested groups. All individuals and groups have a role to play in planning enforcement, as they are the local 'eyes and ears' of the Council in the community. Their contribution towards planning enforcement is greatly appreciated by the Council.
- 3.3 All Planning Enforcement Service contact should be undertaken through the Maidstone Call Centre (01622 602 736) or e-mail planningservices@midkent.gov.uk. This contact can be made by letter, telephone or email. If contact is needed in person, the Call Centre will organise a meeting with the relevant officers as required. In all cases, you will need to provide confirmation in writing of what you wish to have investigated so the case can be substantiated in the future, including:
- the precise location of the site or property to which the complaint relates;
 - the exact nature of the concern, i.e. the potential breach of planning control;
 - the date the unauthorised development, works or use began, and a note of whether and when they continue;
 - an indication of any harm caused; and
 - where it is known, details of the identity of the person or organisation responsible.
- 3.4 There is an online form you can complete and return to the Council, which can be found at:

XXXXXXXXXX

- 3.5 All investigations are carried out on a strictly confidential basis and the details of the person who has complained will **not** be revealed by the Planning Enforcement Team, unless directed to do so by a Court or the Information Commissioner.

How the Council handles the information it receives

- 3.6 The information below sets out how the Planning Enforcement Service will aim to handle any complaints received:

- anonymous enquiries will not normally be investigated. Any investigation of such enquiries will be at the Council's discretion;
- if you are concerned about providing your name and address, you should contact your local councillor or Parish Council who may agree to act on your behalf; enquirers' personal details are treated in confidence, but if formal action results you may be requested to help the Council's case as a successful outcome may depend on your support;
- acknowledge receipt of your enquiry and provide you with future contact details;
- deal with all enquiries in a fair and equitable manner, and treat all parties with dignity and respect;
- site visits will take place as far as possible in accordance with enforcement priorities;
- to advise you, where possible, what action the Council proposes to take;
- if a retrospective planning application is received, to notify you so that you have an opportunity to make comments;
- if, by 21 working days following receipt of your enquiry, investigations are not complete, you will be contacted and provided with an explanation why; and
- you are welcome to contact the Council at any time to ask for an update.

Resolving your complaint

- 3.7 The vast majority of breaches of planning control are resolved informally by negotiation with the owner/occupier, or by the submission of a retrospective application for consideration. Legislation and central government guidance require that all formal action must match the degree of risk or harm associated with the breach. Each case will be considered on its own specific circumstances, and the personal circumstances of the person responsible may also be relevant. Therefore formal action is not always appropriate.

- 3.8 Following the completion of investigations, the actions available to the Council are:

- establish that the matter is not a breach of planning control (e.g. not development or permitted development);
- establish that the breach has become lawful, e.g. works have been completed for more than four years, or there has been a change of use or breach of condition more than ten years ago which has been continuous);
- invite a retrospective planning application and negotiate a permission with certain conditions attached if appropriate;
- take immediate enforcement action; or

- take no further action.

3.9 There are a number of legal powers available including:

- Planning Contravention Notice (PCN) - often the first course of action is aimed at getting information to determine what action, if any, should be taken;
- Breach of Condition Notice (BCN) – this is used if a condition attached to a planning permission is not being complied with;
- Enforcement Notice – these order unauthorised development (or use) to be stopped, altered or removed, and may also order that land or buildings be put back to their original condition (NB the person who receives a notice has the right to appeal against the Enforcement Notice);
- Stop Notices and Temporary Stop Notices – these can be issued if the unauthorised development is causing very serious, immediate harm, with the latter being able to be served without an accompanying Enforcement Notice;
- Injunctions – these are court orders preventing unauthorised development taking place or preventing further development; and
- Prosecutions – these may be appropriate for offences when an effective notice has been breached (subject to the evidential and public interest tests in the Code for Crown Prosecutors being satisfied).

3.10 The Council will, however, take effective enforcement action when it is essential to protect the amenity of the area, the public, or highway safety, and to maintain the integrity of the planning process within Swale. If an injunction is sought, the Council must be able to justify its application to the Court, and proceedings may remain in abeyance until the appeal process relating to any planning application is completed. If an Enforcement or Stop Notice is issued, the Council must be able to justify its actions in the event of an appeal being made to the Planning Inspectorate. Appeals must be made before the Notice takes effect (as stated in the Notice). Appeals can be lodged on a number of grounds, and the person appealing (known as the Appellant) can request that his/her appeal is dealt with by a written procedure, or ask for an Informal Hearing or Public Inquiry.

When it becomes a Criminal Offence

3.11 A criminal offence occurs where, after the period for compliance, an owner/ occupier fails to comply with the relevant requirements of a valid Enforcement or Stop Notice. For the Council to be able to prosecute, it is necessary for the evidential and public interest tests in the Code for Crown Prosecutors to be satisfied. In the case of a persistent offence against an unauthorised activity, an injunction may eventually be sought as a last resort through the County or High Court.

3.12 When Court action is to be taken, there will be a period of time for investigation and collation of evidence. After proceedings are issued there will be periods of time when Court dates are awaited, which may be lengthy, particularly if there is to be a trial of a complex matter.

3.13 In exceptional circumstances, the Council will also consider taking direct or default action to resolve a breach of planning control. This may involve the use of contractors to enter a site and physically remove or put right unauthorised works. The Council will seek to recover its costs in these cases, possibly in the form of a charge on the land that would be recoverable at the time of sale of the land or property.

4. Decision making

- 4.1 Where a breach, (other than Category D), has occurred and officers believe that enforcement action should **not** be taken, they will consult with ward members, the Cabinet Member for Planning, and the Planning Committee Chair. Should the officer recommendation not be agreed, the matter will be referred to the Planning Committee for resolution. Any decision to proceed with enforcement action will normally be made by a 'designated officer' as agreed through the Council's adopted delegation arrangements set out in the Council's constitution. Appendix A sets out a flow chart for decision making, including the role of Councillors.
- 4.2 Where unauthorised development may only be acceptable by the imposition of appropriate planning conditions or legal agreements, a planning application will be sought. Where a valid application is not forthcoming within an agreed timescale (normally within 28 days), an Enforcement Notice will be served, together with a statement that the Council may be prepared to grant planning permission subject to specified conditions or with explicit or complete measures for mitigation depending on the circumstances of the case.

5. Performance monitoring and review

- 5.1 The performance of the Planning Enforcement Service is to be monitored using the following revised Local Performance Indicators as already set out in paragraph 4.3.

Category	Performance standard	Performance target
A – Major	First site visit within two working days of receipt of complaint	98%
B – Medium	First site visit within five working days of receipt of complaint	90%
C – Minor	First site visit within ten working days of receipt of complaint	90%

- 5.2 We will also to monitor the following:

- Registration of 95% of new enquiries within 1 working days of receipt; and
- Responding to 80% of enquiries within 21 working days of initial receipt of complaint.

- 5.3 It is anticipated that the Strategy will be reviewed on an annual basis reporting through to the Planning Committee and the Cabinet Member for Planning every October, in advance of the drafting of service plans and budgetary cycle. The review will provide an overview of the workload undertaken, including:

- number of complaints and response times (Local performance Indicators);
- number of complaints where:
 - no breach is determined;
 - resolved breach without resorting to enforcement action;
 - enforcement action taken.
- number of Enforcement Notices / Stop Notices / PCNs / BCNs / Injunctions / prosecutions issued;
- number of successful and unsuccessful enforcement appeals with explanation and any lessons learnt;

- commentary on long term outstanding cases (more than six months) with current position statement; and if these are to be identified by site this element will need to be a confidential report; and
- performance in relation to items listed in paras 5.1 and 5.2.

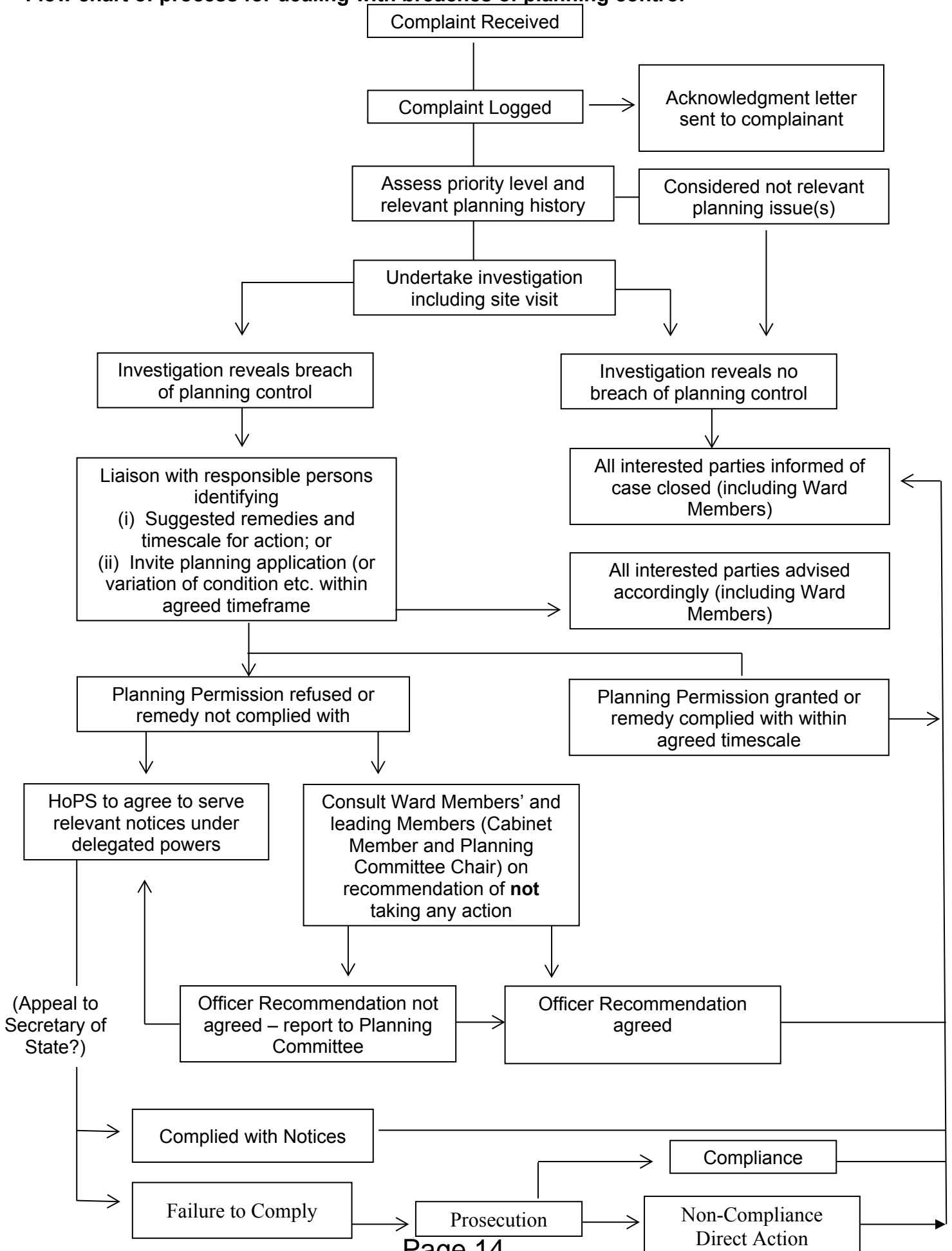
5.4 Additional to the annual review, reporting on all active cases which have exceeded six months will be reported to the Cabinet Member for Planning on a quarterly basis.

5.5 The status of this strategy is guidance, and if there is conflict between this strategy and national legislation or policy, then the national legislation or policy will prevail.

James Freeman
Head of Planning Services

July 2015

Flow chart of process for dealing with breaches of planning control



Planning Enforcement Service Performance

Table P130: District planning authorities¹ - Enforcement action
England, Year ending December 2014^P

Planning authority	ONS code	Enforcement Notices issued	Stop Notices issued	Temporary Stop Notices issued ²	Breach of Condition Notices served	Planning Contravention Notices served	Enforcement injunctions granted by High Court or County Court ³	Number
								Enforcement injunctions refused by High Court or County Court
Swale	E07000113	18	2	2	1	6	-	-
Ashford	E07000105	7	2	6	1	4	-	-
Canterbury	E07000106	-	-	2	-	5	-	-
Dartford	E07000107	2	-	1	-	2	-	-
Dover	E07000108	5	-	1	-	-	-	-
Gravesham	E07000109	3	1	2	-	-	-	-
Maidstone	E07000110	6	1	-	5	10	-	-
Sevenoaks	E07000111	1	-	-	10	-	-	-
Shepway	E07000112	6	-	-	5	2	-	-
Thanet	E07000114	7	-	-	-	2	-	-
Tonbridge and Malling	E07000115	4	-	-	7	2	-	-
Tunbridge Wells	E07000116	8	-	-	-	6	-	-
Medway Unitary	E06000035	11	-	-	4	3	-	4

1 Figures exclude 'county matters' applications and decisions.

2 Temporary Stop Notices are authorised by the Town and Country Planning Act, new sections 171E to 171H, inserted by Planning and Compulsory Purchase Act 2004 from 28 March 2005. Data collected from July 2005.

3 Where a series of Interim injunctions is granted to restrain the same breach of planning control, only the first injunction is recorded here.

- Denotes zero

P Provisional.

Source: General Development Control (District) FS1/FS2 returns

				Last update	Mar-15
Enforcement Cases - 12 months to 3 June 2015 (From Uniform System)					
Maidstone	Total records		432		
Swale	Total records		391		
Tunbridge	Total records		416		

Planning Enforcement Local Authority Visits

Issue	Ashford Council	Medway Council
Resources and team structure	<ul style="list-style-type: none"> ▪ Very recent restructure ▪ Had blended Enf officers within DM teams – now separated out (noting much larger DM Team) ▪ 1.5 FTE Enforcement officers + % of DM officer time : 400 complaints a year 	<ul style="list-style-type: none"> ▪ 2 FTE enforcement officers ▪ Integrated into main DM team ▪ Employ a separate derelict buildings officer
Enforcement priorities	<ul style="list-style-type: none"> ▪ Enforcement Policy document setting out priorities and response times (similar to SBC) + enf policies on the approach to be adopted ▪ Undertake pro-active monitoring of conditions on large scale sites (200+ dwellings) 	<ul style="list-style-type: none"> ▪ None up to date ▪ Derelict Buildings officer employed to bring listed buildings back into use or negotiate improvements
Process for managing complaints	<ul style="list-style-type: none"> ▪ All complaints recorded via on line reporting system; ▪ Monitoring reports presented to planning Committee ▪ All cases reviewed through cabinet member monitoring sessions 	<ul style="list-style-type: none"> ▪ Complaints recorded via planning applications system ▪ No special reporting to members
Transparency of case management		<ul style="list-style-type: none"> ▪ Liaison with Cabinet member only on key cases ▪ No reporting to planning Committee – unless specifically required on adhoc basis
Governance and decision making	<ul style="list-style-type: none"> ▪ All enforcement decisions delegated to Head of Planning with the Planning portfolio holder having the power to refer a matter to the Planning Committee 	<ul style="list-style-type: none"> ▪ All enforcement decisions are delegated to head of planning ▪ Members can refer items to Planning Committee should they wish – very few requests made.
Performance Monitoring	<ul style="list-style-type: none"> ▪ All site visits to be undertaken within specified times according to priority 	<ul style="list-style-type: none"> ▪ All site visits to be undertaken within specified times according to priority
Future developments	<ul style="list-style-type: none"> ▪ Establishing quality management agreements with major developers – who pay for a member of staff to monitor progress on site 	<ul style="list-style-type: none"> ▪ None planned

Swale Enforcement Peer Review

By: Rob Jarman, Head of Planning and Development, Maidstone BC

It was clear that moving enforcement cases forward following the initial complaint and visit was proving to be problematic, for several reasons: time spent chasing contraveners for action, and the time spent dealing with complainants chasing progress. Also that finding it difficult to get time to speak to the Planning Officers about cases now that regular meetings had stopped (with 'backlog' issues taking priority). These meetings were where decisions were taken on how to progress the cases. Now are finding that someone from the right area team not always available, or that even when it is the right team, it is not always the right officer and can often only be the team leader available. This is important as any appeal against enforcement action is dealt with by the planning officers. Now that they are based in same room as the planners, however, there is improved communication. There remains a clear need to get decisions on cases made quicker though.

Communication with members, especially ward members, on progress with cases was also found to be poor. Although officers were found to be accessible, the actual contact from officers with updates was considered poor. This is also not helped as the new Uniform system doesn't provide the information yet for members that the previous Headway system did. It was raised that it needs to be explored how this information can be provided on Uniform. Better communication with members would also result in the correct information being passed on to the public and avoid any possible raised expectations.

Seemed clear that it needed to be explored whether delegated powers are given to officers on enforcement action rather than the committee format that currently exists. Although this (and current committee updates) provides a routine and keeps members involved, it would give greater flexibility to officers to have delegated authority. Ward members could still authorise any action.

Communication with complainants clearly needs to be improved. Both the contact and content of information provided on cases could be much better. Therefore, need to explore how the website may be used to provide information on cases.

The introduction of Uniform through the shared service was said to be posing problems. Another shared service consequence was said to be more incoming e-mail communications, although this did seem to be offset by less incoming phone complaints/queries. It was also apparent that there seemed to be an increase in enforcement cases now that the complaints were coming in through customer services rather than directly to the team.

The issue of non-compliance with conditions imposed on permissions for large scale development was also prominent, and the time that it is taken to deal with these. The setting up of 'groups' could help control this.

Recommendations

- 1) Communication of case management and where it is in the process. Being clear but firm. Transparency yet respecting confidentiality. Safeguards where involving ward members and leading members.
- 2) IT system/ Channel shift. Get 'public' details on website so people can go straight to this, BUT this has to be regularly updated.
- 3) Task and finish groups of officers, developers and councillors (including parish) for large residential developments.
- 4) Clear lines of responsibility for actions. Critical to be decisive on deadlines, by taking enforcement action and justifying it, or not taking enforcement action and justifying it. Discipline - performance management of hitting deadlines.
- 5) Structure - now working far more closely with planning officers, and helped by sharing the same room space.
- 6) Officer delegation for enforcement action unless called in by ward member.

Policy Development and Review Committee - Policies, plans and strategies due for review in 2015/16

Policies, plans and strategies	Service unit	Due date for publication of new/revised policy, plan or strategy	Policy Development and Review Committee dates	Commentary
Planning Enforcement Charter and Strategy	Planning Services		22 July 2015	The Committee considered an earlier report on the review of the Planning Enforcement Charter and Strategy on 15/10/04. The original timetable for the review has since slipped.
Housing Allocations Policy	Resident Services	Summer 2015	16 September 2015	
Access Strategy/Digital First	Communications/Commissioning and Customer Contact Unit		16 September 2015	“
Communications Strategy	Communications		16 September 2015	“
Climate Local Swale	Policy and Performance	Review once the refreshed Kent Environment Strategy has been published by Kent County Council	16 September 2015	Work to revise Climate Local Swale hinges on Kent County Council refreshing the Kent

Policies, plans and strategies	Service unit	Due date for publication of new/revised policy, plan or strategy	Policy Development and Review Committee dates	Commentary
				Environment Strategy which is expected in July 2015.
Playing Pitch Strategy	Commissioning and Customer Contact Unit	December 2015	16 September 15	
Sports Facilities Strategy	Economy and Community Services	December 2015	16 September 2015	
Busking Policy	Economy and Communities	February 2016	18 November 2015	
Corporate Equality Strategy	Policy and Performance	To be published in November 2015	18 November 2015	The Committee considered an earlier report on the development of the Corporate Equality Strategy on 18/03/15.
Data Quality Standard	Policy and Performance	Revised standard to be published by 31 March 2016	20 January 2016	Existing standard to be revised.
Open Spaces Strategy	Commissioning and Customer Contact	January 2016	24 February 2016	
Volunteering Strategy refresh	Economy and Communities	By March 2016	24 February 2016	
Play Policy	Commissioning and Customer Contact Unit	By March 2016	24 February 2016	

Policies, plans and strategies	Service unit	Due date for publication of new/revised policy, plan or strategy	Policy Development and Review Committee dates	Commentary
Revised Property Asset Strategy 2016-19	Property Services	May 2016	24 February 2016	

Policy Development and Review Committee dates 2015/16:

Committee meeting	Deadline for reports
Wednesday 16 September 2015	Friday 4 September 2015
Wednesday 28 October 2015	Friday 16 October 2015
Wednesday 18 November 2015	Friday 6 November 2015
Wednesday 20 January 2016	Friday 8 January 2016
Wednesday 24 February 2016	Friday 12 February 2016

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