

Number	COMMENT	RESPONSE
1	<p><b>DUNKIRK PARISH COUNCIL (16.06.2021)</b></p> <p>This draft is similar to all previous strategies. They mean well but will fail - as previously - if they are not funded sufficiently. This will be seen as lip service without the officers - and the will - to actually enforce and make a difference, without Head of Service hiding behind 'all enforcement is discretionary'.</p>	Noted
2	<p><b>HARTLIP PARISH COUNCIL (21.06.2021)</b></p> <p>I set out below the comments of Hartlip Parish Council (HPC) on the above strategy.</p> <p>Paragraphs 1.1 of the proposed strategy are factual statements upon which HPC has no comments.</p> <p>Paragraph 1.2 presents an interesting and highly relevant statement regarding the <i>increasing public concern about activities that harm the local environment and damage to the quality of people's lives</i> and the Council's acknowledgement that it has very great responsibility in this matter.</p> <p>With reference to Paragraph 1.3, drafting a strategy alone does not, of course, demonstrate execution of that crucial responsibility to a high standard or that cases are dealt with in an equitable and consistent manner. The robust employment of a strategy does.</p> <p>Paragraph 1.3 indicates that <i>Enforcement is discretionary and local authorities should act proportionately in responding to suspected breaches of planning control</i>. Proportionality is a qualitative concept. How does SBC intend to define it? What influence on the definition will Parish Councils and residents have? Many would say that a breach is a breach. 'Give an inch' and some people will take the proverbial mile.</p>	<p>Noted</p> <p>Noted</p> <p>Depends on the circumstances of each case – it is a question of fact and degree</p>

The public wish to see regulations applied as laid down, not modified by individual negotiation for those who want different rules for themselves. They expect consistency for all thus avoiding feelings of injustice. To quote from Paragraph 1.3 'Effective enforcement is important to maintain public confidence in the planning system'.

Paragraph 58 of the NPPF states that councils should consider publishing a local enforcement plan to manage enforcement proactively. It follows then that a plan should then be activated which does not appear to be happening in Swale.

Paragraphs 1.4 and 1.5 of the draft plan cover equality issues and enforcement powers which are a matter of fact.

Paragraph 1.6 suggests *the strategy identifies the resources and matches these with local priorities for action*.....

As far as local priorities are concerned, to what extent are these set by local communities and to what extent are they imposed upon local communities? It indicates that most complaints should be resolved by persuasion and negotiation.

Planning regulations, like all laws, are in place to be the 'persuasion' which ensures that all citizens understand and respect the rationale behind them. This concept is the cornerstone of democracy.

If the regulation and consequence for breaching the regulation are not sufficiently clearly expressed to 'persuade' then the couching of the material and publication method needs to be revisited.

It is significant that time and resources for 'negotiation' are not provided for Parish Councils or the anxious resident whose quality of life is potentially being harmed by someone guilty of a breach.

In other words a form of 'Enforcement by Consent' is advocated. This, of course is a contradictory statement.

Planning Law (like all laws) is set in place to actively encourage all citizens to behave in ways which avoid harm to others, the environment, heritage etc.

The rationale must be made crystal clear in the hope that, with appreciation of the reasons, fair-minded people will act in a respectful fashion. Should every individual then accept the value of this fundamental principle then disharmony and perceived unfairness would not develop and there would be no need for enforcement procedures, the Enforcement Team would be redundant and these resources deployed elsewhere.

The enforcement strategy and charter should reflect the NPPF statement.

This is a strategy and charter for the Council's enforcement service and is for everyone in Swale , who will be treated fairly and equally

There is an expectation through Government Regulations and guidance that LPA's should act proportionately and endeavour to secure a resolution to planning enforcement matters through negotiation and process before resorting to formal action.

There doubtless are occasions when a breach of planning law occurs out of genuine ignorance but then the quality of dissemination of relevant information to the public should be questioned and improved.

All too often, the root cause is not ignorance, it is a wilful desire on the part of the party at fault to achieve a personal aim irrespective of the prevailing regulations which would prevent that outcome or force a modification of outcome.

For some the motivation is avoidance of planning application fees.

Outcomes of weak enforcement include:

- \* societal strain where some people feel that two rules are being applied with 'honest' residents suffering
- \* labelling a local authority as a 'soft touch' (and that has been said about SBC often in recent years)
- \* a perceived mis-management of public funds
- \* an indirect encouragement of breaches of planning law because the enforcement of regulations have no bite leading to more enforcement reports and backlogs.

The public do not feel that the Planning Enforcement Service operates in an equitable, proportionate and consistent manner. They feel that it gives minimal regard to law-abiding citizens.

Paragraph 2.1 references that the majority of complaints received *relate to minor matters and often arise from neighbour disputes* and it quotes small extensions and outbuildings erected under permitted development rights which do not require planning permission.

The tone of Paragraph 2.1 could be felt to be inappropriate and belittling of concerned residents whose 'quality of life', to quote Paragraph 1.2, may be affected.

Officers, as public servants, must not adopt a judgmental attitude towards people raising concerns and seeking help and language which could be seen to have a patronising tone is unhelpful.

'Minor matters' suggests another qualitative statement.

What is 'minor' to an officer may be far from minor in its impact on someone's quality of life.

What is 'minor' to an officer may be far from minor in its impact on a Conservation Area in which someone lives and which they respect and value. Every so-called 'minor matter' breach contributes to deterioration of the built &/or natural environment by 'creep'.

Nor does the statement acknowledge the numerous occasions where small extension plans using permitted development actually exceed permitted

The intention of the document is to agree priorities for action and resource and also to establish a clear and transparent approach to handling cases and expectations given the legislative context involved.

See the document for what is minor – it is common practice amongst LPAs to prioritise cases to ensure that most serious cases are prioritised . It's a common practice of managing planning enforcement services

development limits and have not been built within the approved plans. This has been seen in Hartlip very recently.

Paragraph 2.2. refers to *unauthorised development which is acceptable and can be regularised by the submission of a retrospective planning application.*

There is a misfit between 'unauthorised' and 'acceptable'. The failure to submit a planning application is the cause of the problem and should not be condoned. Generally it is the individual responsible for the breach who is at fault not the person lodging the complaint.

An interesting question is 'how much is it the fault of SBC that some people chose to disregard planning law'?

Paragraph 2.2 goes on to discuss *the use of officer time and costs* suggesting that the cost of enforcement cannot be recouped and so must be questioned.

This is a difficult concept for compliant members of the public to accept. Harmful effects of breaches, however 'minor', should not be measured in officer time and costs. Indeed it is a concept that may be 'a red rag to a bull' to a resident who obeys the rules and is then adversely affected by someone who does not. Effective enforcement would reduce breaches long term as the 'soft touch' perception of SBC would be reduced.

The paragraph goes on to say *that resources must be used wisely to allow officers to concentrate on serious breaches.* What appears to be a minor breach from someone looking at it from afar it could well be a serious breach to someone living next door and having their quality of life affected. It is felt by many that working to remove an attitude of acceptance of 'minor' breaches will, in time, reduce cases of 'major' breaches by creating an understanding of that which is unfair, unacceptable and dealt with robustly.

In reality, the public generally expect that the aim should be to ensure that the rules are kept by everyone and not feel that they are being taken for fools by those whose philosophy is to achieve what they want irrespective of the rules. They expect SBC to protect them, their rights and the quality their life.

Paragraph 2.3 is interesting.

It is interesting to read that 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.*

HPC questions how this is reflected in the systems in place?

Breaches have to be reported on line and a response is then received indicating that the matter will be investigated possibly taking up to 21 days.

The Governments National Planning Policy Framework and associated guidance makes it clear that if development is acceptable, even though no planning permission has been granted, it is not a reason to take enforcement action.

See also appendix iii – Ward Member and Parish Council Protocol where members can call in if required, items to planning committee

Planning enforcement is a scarce resource and priorities need to be set given the legislative framework involved. Furthermore this is why we are reviewing this document in response to past considerations.

The three week deadline is considered appropriate given the need to receive a complaint, undertake a site visit, investigate

<p>HPC has experience of 21 days being a work of fiction with no action until well after that and sometimes only after chasing the department. In other words, 21 days is far too long to achieve that which is required and is a target often missed. This also applies to reports that a tree is being felled in a Conservation Area which will receive a response that the matter will be investigated within 21 days. By the time a site visit is made several trees may have been felled with consequent damaging effects on the Conservation Area in question. It would be interesting to know how many people have been summoned for felling a tree in a Conservation Area in the last three years. The 'word on the street' in Hartlip and doubtless in other areas also, is that the regulations regarding tree felling in the Conservation Area are to be ignored as <i>'they (i.e. SBC) won't do anything if they find out'</i>.</p> <p>There is much reference in the document to 'officer time' but none to 'Parish Council' or 'responsible resident' time. A thought perhaps worthy of pondering by SBC.</p> <p>Paragraph 2.4 refers to <i>resolving not to take action against trivial or minor technical breaches of planning control which may still adversely affect public amenity or cause harm to land or buildings</i>.</p> <p>What is trivial to one person may not be trivial to another. There appears to be no guidance as to what is regarded by SBC officers as 'trivial' or opportunity to debate this concept. A breach is a breach. The Human Rights Act is quoted and it is hoped that the rights of the person in breach are not being referred to without the rights of the concerned, reporting person whose life may be adversely affected being considered with at least equal weight. Everyone has human rights.</p> <p>Paragraph 2.7 <i>categorises breaches as Major/Medium/Minor and sets interesting time targets for site visits for Major/Medium/Minor breaches of 2/5/10 days respectively</i>.</p> <p>Given that HPC has received several acknowledgement letters very recently suggesting that HPC should not contact SBC in under 21 days if it has received no feedback, this is rather curious. If the 21 days referred to are working days the <u>21 working days is 4 weeks and 1 day!</u> A far cry from the targets suggested above.</p> <p>Paragraph 2.7 indicates that visits relating to the felling of trees in a Conservation Area are <b>major matters and the site visit will be carried out within 2 working days</b>.</p>	<p>the planning issues involved (e.g whether permitted development,) and then consider the appropriate way forward often involving other officers, agencies and often legal advice. It should be noted that three weeks is a deadline, but in many cases much shorter time scales are achieved to respond to complainants. The KPI target is 95% of cases to be investigated and reported with 21 days whereas the current rate is 91%</p> <p>The potential for the unauthorised felling or works on a tree in a conservation area/TPO tree is considered an urgent case and site visits will be made immediately by the Tree officer or planning enforcement officer or a planning officer as required</p> <p>The 2/5/10 days are targets for officers to visit the site ,whereas the 21 days is the target for officers to respond to the complainant.</p> <p>These are targets for the officer to visit the site.</p>
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<p>Why is it then that the enforcement officer, in acknowledging reports, says that a visit will be carried out within 21 days with this target often missed. e.g. ENF/21/500436/TREES – HPC reported felling of trees in the Conservation Area and received a letter dated 17 May 2021 indicating that the matter was being investigated but that this may take 21 days. As of 21 June, some 36 days later, no response letter has been received i.e. 34 days after the 2 day target and 15 days after the 21 day target. To add insult to injury, if the Planning and Enforcement Department is chased by HPC, the response received is often a defensive and unhelpful one.</p> <p>In fact the timings in the whole of that paragraph need to be complied with. The targets should be ‘worse case’ response times. Change of use reports are not usually dealt with within 5 days. It is not thought that any of the medium matters are dealt with within 5 days.</p> <p>Paragraph 3.1. It is rare for the anti-penultimate and last bullet points to be complied with.</p> <p><b>Procedure Note.</b> HPC has been very concerned for a number of years about the level of service it has received in connection with matters of enforcement. Some ten years ago HPC suggested that the staffing levels of the Enforcement Service should be reviewed.</p> <p>It would help in the training of Parish Councillors if feedback were received on matters which had been lodged.</p> <p>Bullet point 5 of the Procedure Note encourages Parish Councils requesting an update on any cases within their area to use their Ward Member representatives in the first instance as they have access to the Council’s Planning Enforcement Database with the latest updates. However is understood from the Ward Members that they do not have access to that database.</p> <p><b>General Comments.</b> In any organisation delays lead to further delays and there is a feeling that in Planning Enforcement the staff are running to stand still. A staffing review is clearly necessary but this, without robust procedures and targets and tight, skilful management will not turn the situation round.</p>	<p>Noted</p> <p>The target required 95% of cases to be investigated and reported with 21 days and similar targets are applied to other targets e.g. site visits etc – see monitoring section</p> <p>On occasions the service failed to meet expectations and the Strategy and Charter is aimed at overcoming or limiting such occurrences</p> <p>The service has been under severe pressure in recent years and the Council has recently recognised this by agreeing to recruit to an additional enforcement officer thereby increasing the team from 3.8FTE to 4.8FTE..</p> <p>Noted</p> <p>Ward Councillors do have the ability to access the database and further training will be provided to ensure they have the ability to interrogate the database.</p>
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<p>To expect the Tree Officer to cover such a large area in one day a week appears to be ambitious to say the least.</p> <p>At present there are far too many unauthorised developments and too many retrospective applications.</p> <p>Quality, timely feedback to Parish Councillors on enforcement matters is very important in their development and at present they are getting very little.</p> <p>Most Parish Councils are wholly frustrated with the enforcement system and feel that the time for a root and branch overhaul is long overdue. The description “not fit for purpose” is often heard.</p> <p>Much of the Charter is a recognition that, with limited resources, the enforcement service will be unable to meet its responsibilities. It seems therefore that the plan is to write a strategy based on perceived resources and prune responsibilities to make them fit. This cannot be acceptable.</p> <p>Resources are crucial but so are the qualities of resourcefulness, determination, positive leadership and pride in work and senior managers must be of a calibre to provide these qualities in any department. Only then will progress be made and reputation improve.</p> <p>The Enforcement Service has a very poor reputation at present and this is not good for morale.</p> <p>The reference to the impact on morale is not simply a reference to the morale of paid employees.</p> <p><b>Long overdue is consideration of the impact that inadequate performance by Planning and Enforcement has on Parish Councils.</b></p> <p><b>These are people who give freely of their time (often 7 days per week) for the benefit of communities that they know well and care for immensely.</b></p> <p><b>The perpetual need to keep check on cases, chase cases, receive no response or defensive responses to enquiries is unacceptable. It assumes a lack of respect for their work, time, effort, local knowledge and professional expertise. It discourages rather than encourages people from taking on this important community work.</b></p> <p><b>Parish Councillors are human beings too with Human Rights and their well-being and morale are as important as that of any paid, public servant.</b></p> <p><b>Any SBC strategy and charter must consider this and build in safeguards which value the contribution of, support and respect Parish Councils.</b></p>	<p>There is a recognition of increased pressures on the service given increased involvement and expectations from councillors and parish councils and this strategy and charter including the new protocol is aimed at improving communication and service provision.</p> <p>A good level of service is provided by our tree consultant albeit on a restricted basis</p> <p>Agree and believe that we are working towards this with the implementation of this document</p> <p>The service has generally met standards and performance targets although over the past 18 months recruitment difficulties and short term covid related issues has meant there has been a drop in performance below the targets expected. Efforts have been made to get back on track although ongoing recruitment and retention has made improvements difficult to sustain. The Strategy and Charter should help to smooth communication and case handling matters to</p>
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		provide greater efficiencies working closer with ward members.
3	<p><b>GRAVENEY WITH GOODNESTONE PARISH COUNCIL (22.06.2021)</b></p> <p><b>Point 2.4</b> – ‘<i>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:</i>’</p> <p>the <b>third</b> bullet point states:</p> <ul style="list-style-type: none"> <li>· <i>resolving to not take action against trivial or minor technical breaches of planning control which may still adversely affect public amenity or causes harm to land or buildings;</i></li> </ul> <p>We are concerned that this may mean that some harmful planning breaches would go unchallenged. Can you please clarify what would constitute the type of minor or trivial breaches over which you would not take action, please?</p> <p><b>Point 2.7 B</b>, ‘<i>non-detrimental works to a listed building</i>’ will receive a site visit within 5 days, but under A, ‘<i>unauthorised works to a listed building</i>’, visits will be within 2 days.</p> <p>We feel that the full impact of some works may not always be apparent immediately. Non-detrimental work may not therefore be obvious until it is too late, and harmful work could take place <u>before</u> the site visit within 5 days. What measures are in place to ensure this does not occur - how do you decide what is non-detrimental, please?</p>	<p>See the strategy</p> <p>The strategy sets out guidelines which officers will follow but clearly if the matter is more serious than first thought affecting the listed building then officers will make this a priority</p>
4	<p><b>BREDGAR PARISH COUNCIL (01.07.2021)</b></p> <p>BPC consider that having an effective, vigorous and pro-active enforcement system is essential to uphold the planning system. Without effective enforcement there is no incentive for public compliance or for participants in the system to contribute. Therefore BPC welcome and commend this charter, its aims and objectives. We support the document and make the following positive comments for you to consider for further enhancement.</p> <p>The aims in Section 1.6 are well stated but they do not convey sufficient intent to</p>	<p>Noted</p>



<p>take action when necessary and needed. This may be interpreted as ‘the council having no intent to act’ by some members of the public and encourage them to push boundaries further when breaching planning controls.</p> <p>Therefore strengthen the text as shown below or similar:</p> <p>Change</p> <p><i>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;</i></p> <p>To</p> <p><i>be effective, <b>strong and vigorous</b> in dealing with breaches of planning control giving rise to unacceptable harm on public amenity and/or causing harm to land or buildings;</i></p> <p>In section 2.3 the same applies and the text could be strengthened to emphasise the council’s strong intent to act when it needs to do so.</p> <p>Change</p> <p><i>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.</i></p> <p>To</p> <p><i>The Council will not condone wilful breaches of planning control, and will exercise its discretion to take <b>vigorous</b> enforcement action if it is expedient to do so.</i></p> <p>Similarly in section 2.4 the same applies and the text could be strengthened to emphasise the council’s strong intent to act when it needs to do so.</p> <p>Change</p> <p><i>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;</i></p> <p>To</p>	<p>Agree</p> <p>Agree</p>
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	<p><i>where action is necessary in the public interest, ensuring that appropriate <b>and timely actions</b> are being taken in parallel with negotiations with the individual / organisations breaching planning control;</i></p> <p>Section 2.7 categorises breaches of planning control into Major, Medium and Minor. The best response time for Major breaches is 2 days (presumably 2 working days). This response is not sufficient for Major incidents such as:</p> <p><i>Unauthorised development in conservation area, Special Protection Area, Area of Outstanding Natural Beauty, or other national landscape designations</i></p> <p>or</p> <p><i>Siting of caravan or mobile home for residential purposes</i></p> <p>A breach of control occurring late on a Friday afternoon of a Bank Holiday Weekend could not see any response for over 5 days. Allowing significant harm to occur and the offender to complete works in preparation for a prolonged period of dispute as the planning system slowly responds.</p> <p>Such events require an immediate response that is not proposed in the charter. BPC propose that a further category of Emergency be added and a process that provides out of hours immediate response within 4 hours. Call filtering could be applied to ensure that this service level is only activated in limited circumstances.</p> <p>Section 6.3 provides a number of key performance indicators that will be used to monitor planning enforcement performance. Maintaining the full resource level of the enforcement team is a key factor in delivering effective planning enforcement. BPC are concerned that prolonged periods of understaffing of the enforcement team has impacted performance in recent years. The charter should set a KPI to measure this factor and to set in context the performance achieved by the team and the Council.</p> <p>For example, KPI 5 – Planning Officer / Team staffing level (target 100%).</p>	<p>Agree</p> <p>This is something we will have to look at but it is a small team and we have limited resources and do rely on others such as legal to also be available at such times to help deal with such incidents</p> <p>See above – Council has recognised recent pressures on the team and therefore have agreed for us to recruit to an additional post</p>
5	<p><b>TUNSTALL PARISH COUNCIL (13.07.2021)</b>  TPC apologises for the late arrival of these comments due to our lack of a clerk over the last few weeks.</p>	<p>Supportive</p>

	<p>We welcome this strategy and the prioritisation criteria. We have no experience at TPC of requesting enforcement in recent years but know many local parishes have and would hope that their comments will be taken on board.</p>	
6	<p><b>MINSTER PARISH COUNCIL (13.07.2021)</b>  Apologies to the delayed response to the above consultation due to a lack of resources at my end.</p> <p>This is Minster-on-Sea Parish Council's formal response:-</p> <p>In brief, Minster-on-Sea Parish Council supports the strategy. It offers a concise and useful way forward.  The Parish Council's hope is that in implementing the strategy, more resources will be invested in active intervention i.e., through the recruitment of additional officers on the ground.</p> <p>This should not take away from the hard work of current officers George Mynehan, Jeff Redpath and Steve Whitehead and the Team in getting the job done during a period when resources are being stretched beyond capacity.</p> <p>Moving forward, Minster-on-Sea Parish Council looks forward to co-operating more closely with Swale Borough Council on the matter of enforcement.</p> <p>I hope this clarifies the position at this time. Please remember that Minster PC Members are as you are aware very supportive of the work you do. They are available individually to discuss any issues you may have related to cases occurring within the parished area.</p> <p>Well done!</p>	Supportive
8	<p><b>SELLING PARISH COUNCIL (26.07.2021)</b>  Noted.</p>	Noted