

Council 22 November 2017: Questions submitted from Members of the Public

Question No.	Question from	Question:	Question to:	Responsible Officer:
1.	Mr Greenhill	Following on from the fatuous proceedings instituted against Councillor Baldock for not returning blue paper Agenda documents, what has been done, if anything, to regularise the situation? It is clear that there is no provision in law for the return of such documents and it is also clear that the Council has no established system of custom and practice for their return. Council Tax payers do not wish to see their monies being wasted further on the cost of such proceedings and the unjustified and outrageous sums paid to an investigator when provided proper, lawfully recognised procedures are followed and approval given, the matter could easily be resolved, for example, by amending the Council's constitution.	Leader	Monitoring Officer
Response: Thank you for your question. I do not agree with you that there is no established system of custom and practice as over the years this system has been used, however, the process is only invoked in exceptional circumstances. The Monitoring Officer is currently carrying out a review of the Constitution and reported her intention to the Standards Committee held on 14 November that as part of that review she intended to look at the processes for dealing with exceptional matters involving confidential material with a view to this being inserted into the Constitution.				
2.	Mr Harvey (Newington Parish Council)	Members will be aware of the long term on-going issues at the former Newington Working Men's Club site which have culminated in the issuing of a Stop Notice and Enforcement Notice on the site and the Council's Legal team considering whether the extensive evidence provided is sufficient to prosecute. Do Councillors share the despair of Newington Parish Council, the people of Newington and especially those resident in the High Street at the activities of the owner of the former working men's club site, the despair at the eventual decision by Legal officers that a prosecution is not in the public interest and that a prosecution would have sent a clear message to this site owner and to others of the requirement to	Councillor Gerry Lewin	James Freeman

		abide by the conditions set by the Planning Committee for all planning applications in Swale?		
<p>Response:</p> <p>I have much sympathy with the Parish Council given the disturbance and frustration that the local community has had to experience arising from a developer who has flagrantly flouted planning conditions and I believe attempted to push the planning rules to the limit.</p> <p>The Head of Legal Services, following advice received from an internal planning barrister on possible prosecution, advises that there is evidence of a Breach of Notice that continued in respect of one significant condition for three days following the serving of the Notice. While it is appreciated that the local community have been frustrated by the breach of the planning conditions and the Notice, as well as the noise and disturbance arising from site clearance and construction activities, there has arguably been no significant planning harm. Compliance took place with the requirements within days of service of the Notice. Taking into account these facts, the offence is likely to be considered by the Court to be of limited seriousness as a result of the lack of harm caused; any sentence imposed by a court would be reflective of that fact which is likely to be a total or conditional discharge. In these circumstances prosecution is unlikely to be considered a proportionate response in the public interest. Prosecution action is not therefore recommended.</p> <p>I note the concerns raised about how the site and its related planning issues have been handled by the Council over several years. I have asked that these concerns be raised as a formal service complaint and investigated by the Head of Planning through the Council's complaints procedure.</p>				