

<b>Scrutiny Committee Meeting</b>	
<b>Meeting Date</b>	22 March 2018
<b>Report Title</b>	Planning Enforcement service
<b>Cabinet Member</b>	Cllr Gerry Lewin, Cabinet Member for Planning
<b>SMT Lead</b>	Emma Wiggins
<b>Head of Service</b>	James Freeman
<b>Lead Officer</b>	Andrew Jeffers
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	1. To note the ongoing implementation of improvements in the Planning Enforcement Service.

## **1 Purpose of Report and Executive Summary**

- 1.1 The purpose of the report is to show that previous concerns raised by members in relation to enforcement investigations have been addressed. To show how the newly enhanced team will deliver effective and timely investigations, utilising a multi agency approach in accordance with the recently adopted Strategy and Service Charter for Planning Enforcement October 2017 (Appendix I)
- 1.2 The content of this report may appear self critical at times however an honest, open, and realistic appraisal of past performance is essential to fully understand how the newly adopted investigation module has started to change both the standard of investigations and service delivery to our customers.

## **2 Background**

- 2.1 The main areas of concern raised by members include:

**Enforcement team make up:** Dynamics, responsibility, and accountability.

**Communication:** A lack of effective communication to members of the public, Ward members, Parish Councils, Planning Committee Members and all other Borough Councillors.

**Monitoring of cases:** Failure on occasions to record accurate and up to date investigation notes on the uniform system. Failure to progress investigations to conclusion in a timely manner, failing to have a protocol in place allowing members to monitor, question or challenge investigations.

**Need to communicate changes and improvement achieved with up to date statistics:** It is recognised that progress of ongoing cases should be better communicated to all including Councillors and the general public and to identify methods in achieving this.

### **Enforcement Team make up**

- 2.2 As previously reported the resources of the enforcement team were increased in October 2017 from 2.8 FTE to 3.8 FTE. This includes effectively 2 full time investigators (Jeff Redpath and Laura Boozer), one part time investigator (Gemma Bryant), and a senior investigator (Carole Williams). The team is further currently helped out on a temporary basis by one full time agency contractor (George Mynehan).
- 2.3 Whilst each team member has their own skills and experience which they bring to the team, it is recognised that ongoing monitoring and training is required in the specific area of Planning Enforcement. This does at the same time provide an opportunity for the team to be developed to achieve results in line with the new investigation plan (Appendix II) and the Strategy and Service Charter. Nevertheless it has already been noted that the investment in the team has already shown a significant improvement in service delivery since October.
- 2.4 Each team member has been given responsibility for a specific area of the Borough. Whilst still in its infancy, it is envisaged that this will promote a more personal and knowledgeable response to all customers. Officers have been encouraged to attend Parish Council meetings to update them as commitments allow. For example officers have attended the meeting of Eastchurch Parish Council in February 2018 and fully updated them on all outstanding investigations in their area and received a very positive response.
- 2.5 The team comprises of the following individuals:

Jeff Redpath – responsible for Isle of Sheppey

Laura Boozer – responsible for Faversham area

Gemma Bryant – responsible for Sittingbourne and surrounding area

Carol Williams – responsible for providing overview of all areas with more high profile cases.

Whilst individuals are responsible for individual areas, it is recognised that it is still a team requirement that the whole borough receives a quality service, especially in the event of any temporary absence of a particular responsible officer.

### **Communication**

- 2.6 Effective communication to update all parties on all levels is one of the main areas of criticism. Whilst this is acknowledged it should be recognised that there were many factors which may have contributed to poor performance in the past.

This however has been addressed with the increased staffing levels, a change in culture, the investigation plan requirements, and the management review process of investigations. It has been noted that significant improvements have now been made.

Member Initial information regarding complaints.

- 2.7 At the point of registering a complaint an acknowledgement letter has always been automatically generated and sent to the complainant. This is now being updated and an internal letter will be generated to the ward member, this will detail the address of the complaint, the general circumstances of the matter in question, and identify the investigating officer. Personal details of the complainant will be withheld. The above process is currently being finalised with ITC and MKPS, as consideration is being given as to whether this information should be in hard copy form or e-mail. But should be introduced by the end of March 2018. The new investigation Plan ensures regular updates to complainants, members and Parish Councils through the new review of investigation process.
- 2.8 Since October 2017, following the initial site visit all cases are reviewed at team meetings (Every Thursday 10:00 am).At this point the investigating officer will receive advice on their initial findings, merits opinions from Area Planning Officers ensuring swift and immediate action where breaches are identified.
- 2.9 This would also be an ideal opportunity for any member who would like to attend and receive a detailed update by the team, to review photographic evidence, or provide helpful local knowledge or information. This form of assistance would be welcome.
- 2.10 All cases over 3 months old will receive an enhanced level of review. This is undertaken by the senior enforcement officer or relevant area planning officer. This will ensure that all lines of enquiry are being pursued, necessary enforcement action is taken without delay, and all parties are fully updated.

Parish Council updates

- 2.11 Parish Councils are now far more informed. Immediate responses to enquiries are promoted as good practice. Good working relationships are being forged with the Parish Clerks to fully update their respective Councils. Again this is in its early stages and will continue to improve over time.
- 2.12 Personal contact with Parish Councils is encouraged to address issues and update them on a regular basis.

Complainant updates

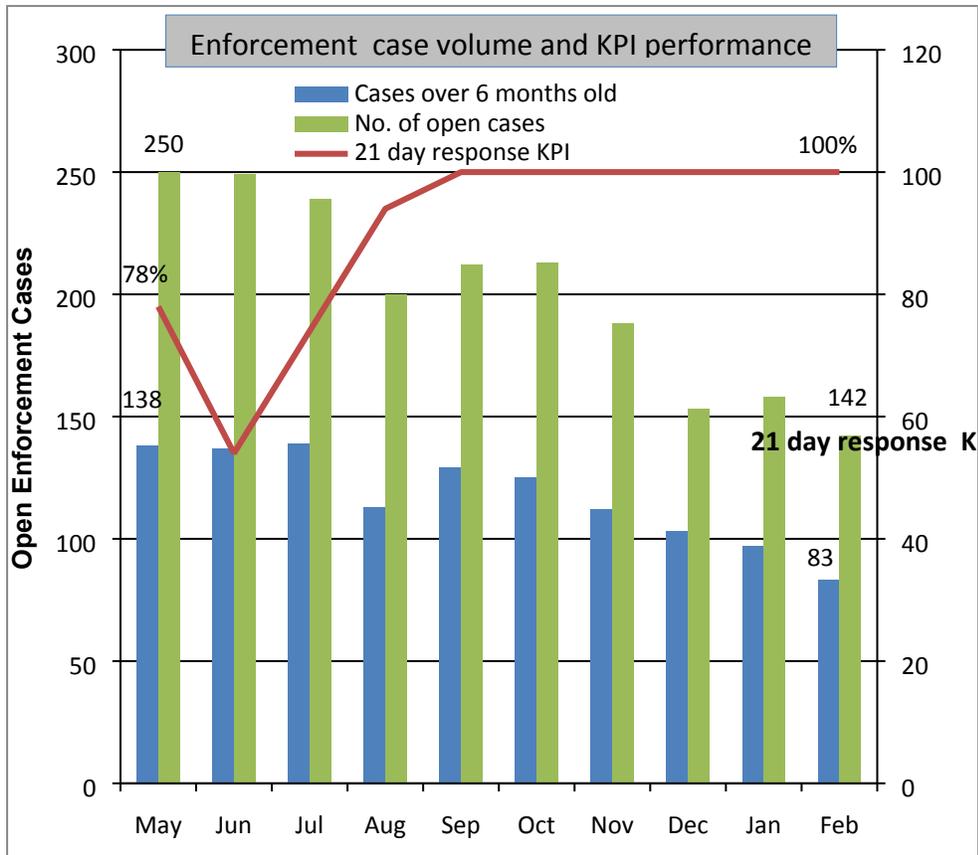
- 2.13 The new review process within the investigation plan ensures complainant are fully appraised at regular intervals and updated with significant developments.

### **Monitoring of Cases**

- 2.14 It is accepted that the use of the Uniform system to record, monitor, and effectively manage the investigations of complaints of alleged planning breaches was inadequate. This was identified by the recent audit 2017. However the Uniform IT system is fit for purpose and with the appropriate information input will be fully updated and a powerful operating tool for users.
- 2.15 Since last years Audit report on the Planning Enforcement Service , all officers have received full training to ensure they are comfortable and competent in the use of the system. Each case is monitored regularly to ensure all information is captured and recorded at each stage of the investigation. The review process ensures that cases are progressed expeditiously and formal action is identified and when warranted taken at the earliest opportunity. Members should note that Enforcement cases cannot be closed until formally resolved and agreed by the senior investigator or Area Planning Officer.
- 2.16 All cases over 3 months old are monitored on the 3 month watch list by the senior investigator, and are reviewed by the Area Planning officer and Development Manager.
- 2.17 All cases open after six months are reviewed every 3 months at a meeting of the Planning Chair and Cabinet Member for Planning, together with the Development Manager and Senior Investigator who examine the conduct of the enquiry and the delay in resolving the case.

### **Communicating Changes and Improvements**

- 2.18 It is clear that one of the main member frustrations was the time taken to effectively resolve complaints. Whilst there are good reasons for such delays on some occasions this should not be the norm. Since September 2017 there has been a month by month reduction in open cases. And similarly a steady fall in investigations over six month old. The Key performance indicator achieved 100% in September 2017 the month changes were initiated, and have been maintained at that level since.



2.19 The underlying data shows that cases are now being effectively dealt with within the initial 3 month period. And the 21 day full response time to complainants has now consistently been achieved for the past six months.

Enforcement Caseload								
New Cases Opened	Cases Closed	No. of open cases	Monthly Change	Year	Month	Cases over 6 months old	% over 6m old	21 day response
35	17	1570	0	2016	Jan			
41	70	1541	-29		Feb			
33	24	1550	9		Mar			
38	65	1523	-27		Apr			
35	43	1515	-8		May			
39	57	1497	-18		Jun	1406	93.9%	
35	355	1177	-320		Jul	1083	92.0%	
65	39	1203	26		Aug	1080	89.8%	
40	939	304	-899		Sep	159	52.3%	
39	114	229	-75		Oct	76	33.2%	
43	59	213	-16		Nov	69	32.4%	
25	33	205	-8		Dec	74	36.1%	
37	26	216	11	2017	Jan	76	35.2%	
35	34	217	1		Feb	99	45.6%	
43	41	219	2		Mar	108	49.3%	
29	26	222	3		Apr	121	54.5%	
51	23	250	28		May	138	55.2%	78
35	36	249	-1		Jun	137	55.0%	54
16	26	239	-10		Jul	139	58.2%	74
29	68	200	-39		Aug	113	56.5%	94
19	7	212	12		Sep	129	60.8%	100
47	46	213	1		Oct	125	58.7%	100
33	58	188	-25		Nov	112	59.6%	100
13	48	153	-35		Dec	103	67.3%	100
31	26	158	5	Jan	97	61.4%	100	
16	37	142	-16	Feb	83	58.5%	100	

As at 21/2

2.20 Members should note that a further four key performance indicators have recently been introduced. These have been drafted to further ensure that performance is transparent and measurable they will ensure that all actions that can be taken have been through a thorough review process. This gives specific responsibility to investigators, seniors, and managers to ensure that all cases are progressed expeditiously.

### 3. Proposals

3.1 Since September 2017 as well as addressing the outstanding cases, some more major and time consuming operations have been conducted. These have utilised a far more multi agency approach organised by the enforcement team, this ensures a fast pro active and effective response to major complaints. We have now forged close working partnerships with internal and external agencies ensuring we utilise the wealth of experience previously untapped. Recent examples of this proactive approach can be seen in tackling difficult enforcement

issues at Spade Lane, Brotherhood Woodard and Newington Men's Working Club.

- 3.2 As part of the new approach a close liaison between the enforcement team and the legal departments has been arranged. All cases requiring advice are submitted promptly as a full and complete advice file. The senior investigator meets every month with legal to ensure cases are progressed and any further work required by legal is completed and submitted in a timely manner.
- 3.3 The enforcement team is committed to working together to further improve the service provided. It feels it has achieved good results so far in a relatively short period and this will only get better as all the new processes are imbedded and officers steadily gain experience.

## **4 Alternative Options**

- 4.1 It could be considered that Planning Enforcement is separated from the main planning function and included as part of a general enforcement regime. This is not considered appropriate given the close ties that planning enforcement officers require with planning officers to inform and defend enforcement action.

## **5 Consultation Undertaken or Proposed**

- 5.1 This report follows from previous reporting and presentation to the Scrutiny Committee.

## **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	The aim of the proposals is to have a more customer focus service whilst maintaining performance – A Council to be proud of.
Financial, Resource and Property	The new planning enforcement service integration into the Development Management team has been fully budgeted for.
Legal and Statutory	None identified at this stage.
Crime and Disorder	None identified at this stage.
Environmental Sustainability	None identified at this stage.
Health and Wellbeing	None identified at this stage.

Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	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: Planning Enforcement Strategy and Service Charter October 2017
  - Appendix II : New Investigation Plan

## **8 Background Papers**

None.



**A STRATEGY AND SERVICE  
CHARTER FOR  
PLANNING ENFORCEMENT**

**October 2017**

## 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 and to ensure the service has capacity to liaise and respond to ward councillor and Parish/Town Council issues.
- 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;
- to ensure appropriate conditions are applied to new development;
- not taking action solely to regularise development or obtain a fee; and
- taking account of the Human Rights Act 1998.

2.6 All complaints will be acknowledged within 24 hours of receipt if sent directly to Planning Enforcement Team via the web site on line complaints form or directly via e-mail, phone or letter (contact details included at the end of the document).

2.7 The team will then investigate each complaint to ascertain whether a breach of planning control has occurred and to respond to the complainant within 21 days. If a breach has occurred the response will include a target date for the next stage of action to rectify the breach to be taken.

2.8 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 case basis, based on the information provided to the Council:

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

- 2.9 The priority list provides an indication of the acknowledgement for expediency in reacting to a complaint and the level of focussed resource that will be required to handle the case – with major cases being dealt with as a priority and a certain level of immediacy whilst minor cases will be handled as and when workload and resources allow.
- 2.10 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.
- 2.11 The Council will review whether there is an opportunity to introduce a planning conditions compliance service with regard to major planning permissions (for housing schemes of more than 10 dwellings or 1000m<sup>2</sup> commercial) whereby the applicant would obligate to funding the cost of officer time for monitoring progress on compliance with planning approval conditions.

### **How the Council handles the information it receives**

- 3.1 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**

- 3.2 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.

3.3 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.

3.4 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);
- Enforcement Order – appropriate where there has been a deliberate concealment of a breach of planning;
- 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).

3.5 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**

- 3.6 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.
- 3.7 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.
- 3.8 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 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 corporately on the basis of responding to 90% of all complaints within the 21 day deadline.
- 5.2 Following the initial response within 21 days, each case will be reviewed on a case by case basis based on the target dates set for the next step of action to be completed e.g. submission date for a retrospective planning application, compliance period for an enforcement notice etc.
- 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;
- 21 day response performance indicator; and
- Case progress targets:
  - bring 75% of cases to a target conclusion within 90 days of receipt of complaint. For the purposes of this strategy 'target conclusion' means case closure, submission of a retrospective planning application, enforcement action or summons to court.  
1.7
  - discuss and agree a course of action for 99% of all cases that have not achieved a conclusion within 120 days of receipt of the complaint.  
1.8
  - ensure that 95% of planned courses of action are achieved on time.

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.

# SWALE PLANNING ENFORCEMENT SERVICE CUSTOMER CHARTER

## Introduction

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

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. All Planning Enforcement Service contact should be undertaken through the Maidstone Call Centre (01622 602 736) or e-mail [planningservices@midkent.gov.uk](mailto: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.
4. There is an online form you can complete and return to the Council, which can be found at:  
<http://www.swale.gov.uk/planning-enforcement/>
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.

## APPENDIX II

To meet and exceed the set objectives of performance the below guidelines of investigation target timescales should be achieved. This is to be considered a team objective and not specifically/wholly an individual responsibility.

### **Investigation Plan for enforcement officers.**

#### **Initial allocations**

1. Once a complaint is received this should be graded as at present High Medium Low. This is presently done by the senior planning investigator on a daily basis. However in their absence the task will be delegated and must still be completed.
2. As the case is allocated, the grading must be noted by the investigating officer and prioritised accordingly. When the case is graded **High** a site visit must be conducted within 24 hours. Full site notes completed. The DM team manager should be briefed as soon as practicable on all such cases. The ward member covering that area should be notified by e-mail of the case, the reference number, and the initial findings. The ward member should always be added to the complainants list on uniform to ensure full updates during the course of the investigation.
3. In the cases of medium and low grading's the ward member will be added to complainants list if an expression of interest is given.
4. All initial visits should be conducted within 14 working days and uniform updated. Details of contact and update of the complainant should be recorded in the actions field.

#### **Investigation process**

5. Once the initial site visit has been completed. It is essential that full site notes covering the findings are updated on uniform; this should also include any gathered evidence, Photographs, conversations, explanations etc. This should be accompanied with the next proposed action and dated. Follow up compliance dates should also be placed in the notes field.
6. If advice re progressing the enquiry is required this should be raised at the weekly enforcement officers meeting on Thursday Mornings.
7. DM managers advice can be obtained at the weekly DM meeting Thursdays
8. It is important that investigators set realistic and achievable dates for initial compliance. Normally 28 days for the submission of retrospective applications. Non compliance or failure to respond should be progressed to the next stage without delay, but in any case within 14 days.
9. If Formal Notices are authorised they should be drafted, and served as soon as practicable. A full copy of the Notice will be added to Uniform notes. An entry made in the Notices Book. And a hard copy placed in the Notices cabinets. The compliance date must then be added to the team calendar. This will outline the address, type of Notice and its requirements. The enforcement case will remain open and live during this process.

10. A full site inspection must be carried out within 5 days following the expiry of a compliance period. Compliant sites will have full notes with evidence updates and the cases closed.
11. Failure to comply with the enforcement notice will be treated as a serious breach. The offenders will be interviewed under caution as soon as practicable and full prosecution papers prepared.
12. Cases over 12 weeks old, still under investigation and that are not awaiting a planning decision, or within a compliance period, must be reviewed on Uniform by the senior investigator, or DM team manager. This review should form part of the case notes to ensure all avenues of enquiry have been completed. All cases rated as **High** should receive a 4 weekly review. Part of this should be regular updates to both complainants and ward members.

Meetings with the Legal department have been arranged monthly to ensure enforcement cases are progressed swiftly through the courts. All prosecution files will be quality assured through the senior enforcement officer prior to submission. It is essential that the initial submission of evidential files is of the highest standard; this will ensure that delays through the legal process are kept to an absolute minimum.

Note;

It will be noted that it is expected that initial site visits should be conducted within 14 days, The KPI expects them to be achieved within 21 days. This allows 7 days for any work to be picked up by the team, due to leave, sickness or workload. Success can only be achieved by a fully committed team effort.

George Mynehan

Planning Enforcement Senior Consultant

March 18