

Arun District Council

REPORT TO:	Planning Committee - 30 November 2022
SUBJECT:	Updated Planning Compliance Strategy 2022
LEAD OFFICER:	Juan Baeza – Planning Area Team Leader
LEAD MEMBER:	Councillor Terence Chapman
WARDS:	All Wards
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The recommendations support: - <ul style="list-style-type: none">• supporting our environment to support us.	
DIRECTORATE POLICY CONTEXT: The proposals will help to enhance the quality of the natural and built environment, protect the District's natural and heritage assets.	
FINANCIAL SUMMARY: There will be an administrative and resource cost to enable the planning computerised system to provide the required monitoring reports. This can be accommodated within existing budgets.	

1. PURPOSE OF REPORT

- 1.1. The report sets out the outcome of consultations with the Parish Councils and Town Councils on the proposed updated Compliance Strategy and seeks the Planning Committee's agreement that the strategy be adopted.
- 1.2 To consider the comments and issues raised by Parish Councils and Town Councils in response to the consultation exercise initiated on 10 June 2022 and relevant officer responses.
- 1.3 To note the proposed arrangements for closer working with Parish Councils and Town Councils.

2. RECOMMENDATIONS

- 2.1 To approve the updated Planning Compliance Strategy 2022, attached to this report as **Document 1** on the basis that:

Work to monitor and include performance targets specified in the Strategy will be initiated within three months of the adoption of this strategy.

2. EXECUTIVE SUMMARY

- 3.1 Officers presented a report to Members, at the 25 May 2022 Planning Committee, concerning proposed amendments to the Council's Compliance Strategy ([Public Pack](#))[Agenda Document for Planning Committee, 25/05/2022 14:00 \(arun.gov.uk\)](#).
- 3.2 Members resolved to defer the item pending the outcome of informal consultation with Town and Parish Councils. [Printed minutes 25th-May-2022 14.00 Planning Committee.pdf \(arun.gov.uk\)](#)
- 3.3 A consultation exercise was undertaken on the 10 June 2022 when all the Paris/Town Councils were asked to provide their views on the proposed changes to the Compliance Strategy. This report presents details of the responses to that consultation and is to be read alongside the previously deferred report. The report also presents officers' responses to the issues raised. No substantive changes are proposed to the updated compliance strategy previously considered.
- 3.4 The recommendations contained in the previously deferred report are carried forward in this report, except for the recommendation to carry out informal consultation (which has now been completed) and work to amend the digital complaint form. One of the main changes sought for the digital complaint form was that it would be capable of having photographs attached to it. However, this has proved to be technically complex and costly and is, in any event, addressed when acknowledging complaints whereupon a request is made that photographs of the alleged breach are forwarded to the Council.
- 3.5 An explanatory breach of planning control note has also been prepared that will enable the Council's Duty Planner service to be terminated, as scheduled, at the beginning of 2023.

3. DETAIL

- 4.1 All 27 Parish/Town Councils in the District were consulted by email on 10 June 2022. They were also provided with copies of the report that went to committee in March together with a copy of the proposed revised strategy.
- 4.2 Thirteen Parish/Town Councils responded. These were Middleton On Sea PC, Felpham PC, Littlehampton TC, Kingston PC, Bersted PC, Ferring PC, Rustington PC, Aldwick PC, Bognor Regis TC, Clymping PC, Pagham PC, Barnham and Eastergate PC and Yapton PC. The comments received from each of the Parish/Town Councils are appended in **Document 2**.
- 4.3 The table below sets out all the comments made by the Parish/ Town Councils and the officer response to each of these.

<u>COMMENTS FROM PARISH/TOWN COUNCILS</u>	<u>OFFICERS RESPONSE</u>
The strategy has been rushed through without meeting the needs of residents.	Amendments to the strategy have been worked on at officer level since Autumn 2021 and following the request by Members at the May Planning Committee Parish/Town Councils views have been sought.
The Council needs to state what it proposes to do regarding enforcement staff members if this revised strategy proposes to place the onus on Parishes and residents to carry on reporting of planning breaches. Without a full complement of staff, the strategy will have no backbone and investigation of priority 1 cases will not be met.	The Council has recently recruited consultants to continue providing the Council with an enforcement service and assist in clearing the backlog of cases that has been generated during the time of staff vacancies. The Council will strive to return to a fully resourced enforcement service. The Strategy is not written based on having reduced resources.
Extensive information required from residents who are not experts.	The likelihood of a successful and timely resolution of complaints is reliant on availability of the full facts at the earliest stage.
What about those who have not got access to a computer to submit a complaint? It is wrong to only accept complaints if they are submitted online, especially on the elderly.	For those without computers they are available for use in local libraries and the Civic Centre. Where people are not computer literate then communication by post would be accepted. This is made clear in section 8 of the proposed Strategy.
<p>Minor breaches will not be dealt with. How can residents discuss their problems? If officers are not available residents will feel service is not fit for purpose.</p> <p>How will complainants know which priority their case is?</p>	The intention with minor breaches (these include those that are Permitted Development) is that they will be acknowledged and addressed with reference to an explanatory leaflet that will set out what is Permitted Development and therefore not a breach of planning control. Where there is a technical breach but one that would not cause any planning harm and therefore not result in any further action complains will be acknowledged with a response to say that due to their minor nature they will not be investigated. Section 10 of the Strategy sets out how cases are prioritised (1 to 4) with examples of what type of breach falls into what priority. Section 11 goes on to set out the timelines for carrying out site visits for each priority case and by when complainants will be updated with investigation progress.

<p>Advise residents to contact Parishes for information about breaches of planning control. Arun District Council should engage with District Councilors and Parish/Town Councils to explore avenues by which an appropriate level of support could be provided at a local level, particularly whilst the short-term staffing issues prevail.</p>	<p>Noted and agreed. This is welcomed and it is proposed to arrange training in the New Year for members and Parish Councils. This will include joint working to develop protocols around the roles of the Council and the Parish and Town Councils on handling compliance cases.</p>
<p>The strategy does not consider diversity and equal opportunities.</p>	<p>The public sector equality duty would apply to the policy and guidance and their overall application. Individual cases are determined according to the merits of the case. Equalities Impact will be a part of the periodic review regime for the revised strategy</p>
<p>Strategy is contrary to aspirations of National Government, which is to encourage greater involvement at a local level.</p>	<p>The strategy follows national advice which requires that Planning Authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to 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 appropriate. Greater involvement at local level will be encouraged through closer working with Parish and Town Councils</p>
<p>Given that the enforcement service is down to 1 full time post is this a temporary strategy and is it compliant with review of the Planning Department?</p>	<p>The intention is to implement the strategy against a full complement of 5 enforcement staff.</p>
<p>No information given as to future recruitment of enforcement officers.</p>	<p>Previous attempts to recruit enforcement staff have been met with little/no response. The Council has recently agreed a new strategy to recruit which it is hoped will yield greater results.</p>
<p>The emphasis on “significant” is open to interpretation and gives a potential green light to planning breaches and environmental damage.</p> <p>There is no definition of ‘expedient’, ‘significant’, ‘proportionate’, ‘acceptable’ or ‘where resources permit.’</p>	<p>These terms are necessary as paragraph 59 of the Government’s National Planning Policy Framework confirms that ‘enforcement action is discretionary and Local Planning Authorities should act proportionately in responding to suspected breaches of planning control.’</p>
<p>As a matter of public interest there should be a detailed list/table of performance, indicating the statistics relating to how many</p>	<p>It is proposed to interrogate the enforcement database in the form of monitoring reports to carry out the monitoring suggested. Monitoring reports</p>

<p>requests/actions/conclusions associated with enforcement take place and the monitoring of Enforcement/Stop Notices. This will provide residents with confidence in the service.</p>	<p>can also assist in tracking the success in investigating priority cases within the standards suggested. Periodic monitoring will be carried out that will be reported to Members via the Planning Committee.</p>
<p>Information required is too onerous and not all that is required is attainable. Without it complaints may be returned without investigation.</p>	<p>The strategy makes it clear that it 'may' and not 'will' return complaints if not all information is supplied. We understand that planning is a difficult subject to navigate/understand. Where possible, officers can assist complainants to articulate their concerns, however this is likely to result in delay.</p>
<p>It is wrong to not investigate anonymous complaints.</p>	<p>Where complaints are anonymous it is impossible to engage with the complainant where their participation/engagement is required. Without details of a complainant a case cannot proceed as the Council needs a contact to ask questions/information about the allegation being made. It is made clear to complainants that this information is confidential where, by law, it cannot be divulged without agreement.</p>
<p>However minor, all breaches should be investigated. Minor breaches are also important to investigate as they will become major ones if neglected.</p>	<p>Minor and major breaches will be looked at. Minor breaches will include those that do not require planning permission/are not subject to planning control and therefore not investigated. Complainants will be advised of this with an information leaflet.</p>
<p>Houses in Multiple Occupancy should be classed as a major breach not minor.</p>	<p>Agreed. It will be cited as an example of Priority 2 complaints where they have the potential to escalate and cause serious harm.</p>
<p>Should only go ahead if reviewed after 6 months.</p>	<p>Agreed that the revised strategy needs to be reviewed. 6 months is too short a period to provide meaningful results. A minimum of two years is proposed to allow for a proper review although performance monitoring data will be produced on a routine basis.</p>
<p>It would be advantageous to understand how other similar authorities recruit and hold their personnel.</p>	<p>Noted. However, this is not relevant to the contents of the Strategy.</p>
<p>What is the plan to deal with the backlog of current cases?</p>	<p>Appointed consultants together with an effort from existing planning officers is hoped to deal with some of the backlog.</p>

<p>Proactive monitoring of strategic sites where resource allows will lead to a free for all for developers who will face no material consequences for breaches. Residents will suffer as a result, particularly those living near the strategic sites.</p>	<p>There is already monitoring of planning permissions/conditions carried out for the bigger strategic development sites. Given the scale of other approvals/conditions this is not possible elsewhere given the resources available. The added principle of “targeting” means that enforcement effort is directed mainly towards those whose activities give rise to the most serious risk.</p>
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Conclusion

- 4.4 Officers have reviewed and considered all the comments made by the Parish Councils and Town Councils.
- 4.5 It is agreed that it is important for the strategy to be reviewed periodically, and this could be done by setting out the monitoring information in the Council’s published Annual Monitoring Report.
- 4.6 The Parish/Town Councils have suggested that they should be better integrated into the enforcement process where the Council would benefit from the local knowledge and contacts that they may be able to usefully add to the process. This could lead to better outcomes and understanding for all participants in the process.
- 4.7 Officers consider that there is merit in this suggestion from the Parish/Town Councils and would wish to work with them to develop the concept further. As a first step we propose to initiate a dialogue with the Parish/Town Councils in the new year, which will include training for liaison officers and members.

4. CONSULTATION

- 5.1 The proposed strategy has been the subject of consultation with all the District’s Parish/Town Councils. The consultation period was from 10 June 2022 - 8 July 2022, 21 working days.

5. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1 The Council can choose to keep the strategy as it is – however, this is an opportunity, with the existing compliance strategy having been in place since 2019, to further improve it.

6. COMMENTS BY THE GROUP HEAD OF CORPORATE SUPPORT/SECTION 151 OFFICER

- 7.1 Since these changes can be accommodated within existing budget, I have no comment.

7. RISK ASSESSMENT CONSIDERATIONS

- 8.1 Implementing the recommendation will bring the enforcement strategy up to date and provide more effective enforcement of breaches of planning control and improved engagement with complainants, landowners and developers. It is hoped this will minimise the need to make further interventions and associated costs to the Council in taking enforcement and other environmental measures. Recruitment difficulties may pose a risk to the full realisation of the Strategy.

8. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1 This report recommends the adoption of the attached Compliance Strategy. The legal framework is adequately covered in both the report and in the strategy document itself.

9. HUMAN RESOURCES IMPACT

- 10.1 There are no implications arising from the proposals. The strategy is predicated on the recruitment of a full complement of Planning Enforcement Officers. Therefore, the full benefits of the strategy will not be felt until all staff are in post.

10. HEALTH & SAFETY IMPACT

- 11.1 The proposals should help to improve the visual and residential amenity of the wards and towns affected leading to healthier and safer living/environmental conditions. Enforcement activity carries risks to enforcement officers when they carry out site visits. The revised enforcement strategy will be carried out with due regard to staff health and safety.

11. PROPERTY & ESTATES IMPACT

- 12.1 There are no direct implications for Council property.

12. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

- 13.1 The recommendations have had regard to the Council's public sector equality duty in response to concerns that some households especially older households may be disproportionately affected by the requirement to report matters online. While it is noted that there will be people in the community who do not have access to the internet there is no evidence that any of the protected groups are disproportionately affected.

13. CLIMATE CHANGE & ENVIRONMENTAL IMPACT / SOCIAL VALUE

- 14.1 There are no direct adverse implications for climate change and the proposed recommendations are likely to improve the amenity of the Wards/Towns affected.

14. CRIME AND DISORDER REDUCTION IMPACT

- 15.1 There are no implications arising from the proposals. The use of enforcement powers is discretionary and carrying out development without planning permission, although unauthorised, is not illegal. It becomes a potential criminal offence if any subsequent formal notice (e.g., Enforcement Notice) has not been complied with which then can be subject to a formal prosecution to the Courts. The aim of the strategy is to avoid the need prosecute.

15. HUMAN RIGHTS IMPACT

- 16.1 Planning laws and policies are designed to control development and use of land and buildings in the public interest. They cannot be used to protect the private interests of one person against the activities of another. The main Human Rights provisions in relation to planning has been Article 8. A summary of the many court judgments suggests that Article 8 rights are a material planning consideration and should be respected but are not guaranteed and that the rights have to be balanced against all other material considerations and this will be a planning judgment. In one of the leading cases Justice Hickinbottom commented that while Article 8 rights were important, it should not be assumed that they would “*outweigh the importance of having coherent control over town and country planning*” and that in most cases the courts were unlikely to intervene.

16. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

- 17.1 Paragraph 9 of the Strategy makes reference to FOI. Where the Council receive requests for information on enforcement investigations under either the Freedom of Information Act 2000 or the Environmental Information Regulation 2004, information will be released subject to compliance with General Data Protection Regulations. This revised strategy does not amend the existing privacy policy for planning compliance

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BACKGROUND DOCUMENTS:

Planning Compliance Strategy 2019 [Planning-Compliance-Strategy.docx \(live.com\)](#)