

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:	
<p>The recommendations support: -</p> <ul style="list-style-type: none"> • supporting our environment to support us. 	
DIRECTORATE POLICY CONTEXT:	
<p>The proposals will help to enhance the quality of the natural and built environment, protect the District's natural and heritage assets.</p>	
FINANCIAL SUMMARY:	
<p>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.</p>	

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 Parish/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 complaints 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>

requests/actions/conclusions associated with enforcement take place and the monitoring of Enforcement/Stop Notices. This will provide residents with confidence in the service.	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.
Information required is too onerous and not all that is required is attainable. Without it complaints may be returned without investigation.	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.
It is wrong to not investigate anonymous complaints.	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.
However minor, all breaches should be investigated. Minor breaches are also important to investigate as they will become major ones if neglected.	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.
Houses in Multiple Occupancy should be classed as a major breach not minor.	Agreed. It will be cited as an example of Priority 2 complaints where they have the potential to escalate and cause serious harm.
Should only go ahead if reviewed after 6 months.	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.
It would be advantageous to understand how other similar authorities recruit and hold their personnel.	Noted. However, this is not relevant to the contents of the Strategy.
What is the plan to deal with the backlog of current cases?	Appointed consultants together with an effort from existing planning officers is hoped to deal with some of the backlog.

<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>
---	--

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

CONTACT OFFICER:

Name: Juan Baeza
Job Title: Development Management Team Leader
Contact Number: 01903 787853

BACKGROUND DOCUMENTS:

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



PLANNING COMPLIANCE STRATEGY

NOVEMBER 2022

1. Introduction

Arun District Council are committed to providing an efficient, effective, and fit for purpose planning compliance service. This Compliance Strategy will explain how the service will be delivered and the extent of powers available to the Local Planning Authority in relation to breaches of planning control. This document replaces the Planning Compliance Strategy published in 2019.

2. The purpose of planning enforcement

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 relevant legislation to these powers is contained primarily within the Town and Country Planning Act 1990 (as amended) and the Planning (Listed Building and Conservation Area) Act 1990. This legislation is supported by Government advice, including the National Planning Policy Framework (NPPF)¹ and the National Planning Practice Guidance (NPPG)².

3. The Compliance Strategy comprises

- Planning enforcement objectives
- Key principles
- General principles
- What is a breach of planning control?
- Reporting a breach
- Freedom of Information
- Case priority
- Investigating a breach of planning control
- Possible outcomes of the Council's planning investigation
- Monitoring of development for compliance
- Appendix 1 - Types of formal enforcement action

4. Planning enforcement objectives

Arun District Council recognises the importance of planning compliance to maintain the quality of the environment. The Council has the following planning enforcement objectives: -

- To remedy **significant** harm caused by unauthorised development.
- Enforcement action is discretionary, and the Council will act proportionately in responding to breaches of planning control and take action where appropriate.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

² <http://planningguidance.planningportal.gov.uk/>

- Where resources allow the Council will be pro-active in regard to the monitoring of large-scale strategic development to ensure compliance with conditions imposed on planning permissions.
- Where a report refers to matters not controlled under planning legislation but is capable of being pursued by the Council the complaint will be passed to the relevant department for further investigation.
- Where a report refers to matters not controlled by the Council complainants will be advised accordingly.
- Where complaints overlap the jurisdiction of other bodies (West Sussex County Council, Environmental Agency) the Council will seek (as far as reasonably possible and as allowed by law) to ensure co-ordination of enforcement action

5. Key principles

The key principles are:

Transparency

- We will provide information in plain language to complainants and offenders.
- Be transparent in our actions (some information, such as the name of the complainant and any information which could be used to identify the complainant, will remain confidential unless required for court or appeal proceedings, and in accordance with the Planning Compliance Data Privacy Policy at the time).

Helpfulness

- Officers will clearly identify themselves by name when on site and provide contact details to enable further communication and act in accordance with the Town and Country Planning Act governing access to land and buildings.
- Interested parties (including complainants) will be updated when sufficient progress has been made on an investigation, but only where such updates will not prejudice the enforcement action.
- We believe that prevention is better than cure and that our role therefore involves actively working with developers, to advise on and assist with compliance.

Proportionality

- Action against breaches of planning control will be proportionate to the impact of the breach **As far as the law allows, we will take account of the circumstances of the case and the attitude of the developer when considering action. We will take particular care to work with small businesses so that they can meet their legal obligations without unnecessary expense, where practicable.**

Consistency

- .
- All duties undertaken will be carried out in a manner which is fair, equitable, and consistent. While enforcement officers are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies

Targetting

- **Targeting means making sure that enforcement effort is directed mainly towards those whose activities give rise to the most serious risk or where the risks are less well controlled**

6. General Principles

The general principles which govern the operation of planning compliance are: -

- The Council will not take enforcement action to resolve all breaches of planning control.
- 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.
- There are a number of powers available to address breaches of planning control and the Council will apply those most appropriate to the circumstances of each case.
- Anonymous complaints will not be investigated. Complaints by identified complainants who wish to remain anonymous will be investigated but will not be progressed if their anonymity hampers effective enforcement(e.g. I wish to report a breach but I do not want to give evidence in court).
- The Council will seek to resolve breaches of planning control through negotiation in the first instance unless the breach is causing irrevocable harm requiring immediate action. Formal action will only be used if informal attempts to resolve the breach have failed.
- Where development taking place is unlawful (for example, where a developer has not discharged the required planning approval conditions before commencing development) the Council may use Temporary Stop Notices that will require development to stop until such time as all the required conditions are discharged and complied with.
- Where appropriate, reasonable time will be given for compliance in order to achieve resolution of the breach via an application.
- Applications submitted in an attempt to regularise unauthorised development may be determined by the Council.
- Action shall be proportionate to the harm caused and shall take into account relevant circumstances. The Council will consider if it is expedient or in the

public interest to undertake enforcement action to resolve breaches of planning control.

- A Temporary Stop Notice will not be issued where there is a Discharge of Condition application awaiting determination that relates to breach.

7. What is a breach of planning control?

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 (as amended)³ as the carrying out development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted. Similarly, any contravention of the limitations, or conditions belonging to, permitted development, rights, under the Town and Country (General Permitted Development) (England) Order 2015⁴, constitutes a breach of planning control against which enforcement action may be taken⁵.

Below are examples of what might or might not constitute a breach of planning control:

-

Breach of planning control	Not a breach of planning control
<ul style="list-style-type: none"> ✓ Breaches of conditions attached to planning permissions ✓ Not building in accordance with the approved plans of a planning permission ✓ Unauthorised material change of use of land or buildings ✓ Unauthorised works to a Listed Building ✓ Unauthorised advertisements ✓ Unauthorised works to trees the subject of a tree preservation order (TPO) or in a Conservation Area ✓ Unauthorised demolition within Conservation Areas ✓ Engineering operations, such as raising of ground levels or the creation of earth bunds ✓ Unauthorised stationing of a caravan or mobile home for use as an independent dwelling ✓ Land or buildings in such poor condition that they adversely affect the amenity of an area 	<ul style="list-style-type: none"> ✗ Any works which are deemed to benefit from 'permitted development' under the Town and Country (General Permitted Development) (England) Order 2015 ✗ Running a business from home where the residential use remains the primary use of the dwelling ✗ Felling of a tree not within a Conservation Area or protected by a Tree Preservation Order ✗ Land ownership or boundary disputes or trespass issues e.g., scaffolding erected on neighbouring property (these are private matters) ✗ Dangerous structures or health and safety issues – these should be directed to the Council Building Control Department (number) ✗ Internal works to a non-listed building

³ <http://www.legislation.gov.uk/ukpga/1990/8/section/171A>

⁴ <http://www.legislation.gov.uk/uksi/2015/596/contents/made>

⁵ Paragraph: 001, Reference ID: 17b-001-20140306, National Planning Practice Guidance

	<ul style="list-style-type: none"> ✘ Obstruction of a highway (Contact West Sussex County Council), public right of way or a private right of way ✘ Parking of private and commercial vehicles on the highway or on grass verges ✘ Parking caravans on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property ✘ Covenants imposed on property deeds (these are private matters) ✘ Advertisements that are either excepted from deemed or express consent under the Town and Country (Control of Advertisements) (England) Regulations 2007 ✘ Damage caused to neighbouring properties during construction work (this is a private matter) ✘ Anti-social behaviour
--	--

Isolated Minor Breaches of planning control that may not be investigated (not an exhaustive list)

- Fences and outbuildings 10cm higher than allowed under permitted development rights
- Fences that are not harmful to amenity
- Untidy land unless significantly detrimental to amenity
- Where reports of breaches relate to works that do not require planning permission

Where cases of a minor breach are reported, minimal investigations will take place and the most likely outcome is that they are closed due to the limited and acceptable planning harm that they cause.

When/if minor breach reports are received case officers will send an appropriately worded email to say that these complaints will not be registered and proceed to close them.

8. Reporting a breach

In most cases, complaints from members of the public, Councillors and other depts. can only be made and will only be accepted via the online form. Where members of the public are not computer literate complaints and associated investigation will be carried out by post. Emails and telephone calls may be accepted for priority 1 cases only.

Online Complaint Report Form: [Report a breach of planning regulations | Arun District Council](#)

Email: planning@arun.gov.uk

Tel: 01903 737500

The reported breach must include (as a minimum):

- An accurate description of the location or address for the site.
- A detailed description of the activities/development taking place that causes concern.
- Why the complainant believes there is a breach.
- The planning harm being caused and/or how it affects the complainant.
- Attached dated and timed photograph or video (subject to changes to the website/form).
- Estimated or real measurements.
- Names, address and phone numbers (if known) of those responsible for the alleged breach or the landowner.
- The date and times of when the alleged breach took place including when it first started.
- Other information or evidence that may be of assistance e.g., planning application number, previous planning problems/breaches, or additional evidence relating to the breach.
- Your name, address, phone number and e-mail address.
- If the site is large the precise location of the potential breach within that site.

Failure to supply all the above information may result in your report being returned without investigation.

Once the allegation has been investigated and a breach of planning control is established, formal enforcement action **may** be taken if considered expedient to do so. Assessment of the extent of harm caused would not include the following (not exhaustive):

- × Loss of property value
- × Competition to another business
- × Loss of an individual's view or trespass onto someone else's land
- × Party Wall infringement
- × Local/property bylaw infringement

9. Requests made under the Freedom of Information Act 2000 and Environmental Information Regulation 2004

Where the Council receive requests for information on complaints and 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 Regulation.

10. Case priority

Priority 1	Priority 2	Priority 3	Priority 4
Direct and potentially irreversible harm	Potential to escalate and cause serious harm to the environment Contentious	Loss of amenity Other breaches likely to remain stable	Minor breaches Private disputes Other issues not stated below.
Site visit within 1 working day	Site visit within 15 working days	Site visit within 20 working days	Desktop Assessment These will be dealt with without formal registration.
Examples	Examples	Examples	Examples
Unauthorised works to protected tree/s or tree/s in a Conservation area	Unauthorised change of use of land and/or building	Unauthorised outbuildings/ Extensions	Boundary treatment
Unauthorised works to listed building	Unauthorised building	Untidy site	Telecommunications
Condition monitoring (contaminated land + piling only)	Condition monitoring (minus contaminated land + piling)	Deviation from approved plans (new application required, minor variation or de minimis)	General enquiries
Demolition of a building essential to retain	Business from home (high activity levels)	Advertisement control (visual amenity)	Advertisement control (for sale / to let boards)
Breach of condition (serious harm to amenity & ecology)	Advertisement control (highway safety)	Business from Home (initial investigations)	House in multiple occupation

Deviation from approved plans (irreversible harm)	Caravans & development related to travellers	Breach of condition (all other alleged breaches)	Flag poles
			Satellite dishes
			Works likely to be permitted development
			AirBnB's / Holiday lets
			Porches

11. Investigating a breach of planning control

An enforcement investigation can be lengthy and complex, and the time taken to determine each case will vary.

On receipt of an alleged breach the Council aims to:

- Register and acknowledge your complaint within 5 working days
- Carry out the initial site visit:
 - **Priority 1** cases within 1 working day
 - **Priority 2** cases within 15 working days
 - **Priority 3** cases within 20 working days
 - **Priority 4** cases will involve a desktop assessment and a site visit may not be required.
- Provide an update to the complainant at key stages in the investigation and when **significant progress** has been made
- Advise the person reporting and site owner/occupier of the outcome of the investigation and any further action required:
 - **Priority 1** cases within 30 working days
 - **Priority 2, 3 & 4** cases within 90 working days

The council have set performance monitoring targets to carry out initial site visits in accordance with the time specified for that priority (above) in 75% of cases. Further performance monitoring targets have been set for concluding investigations (excluding

formal enforcement action and allowing time for an identified breach to be resolved informally or via a retrospective planning application) of 30 days for Priority 1 cases and 90 working days for Priority 2, 3 & 4 cases 80% of the time.

Reasonable time must be given for compliance with an Enforcement Notice and if this is challenged at appeal, then the Council would be subject to timescales imposed by the Planning Inspectorate or the Courts. As a result of long compliance periods there may be limited progress with which to update interested parties. In such cases interested parties are welcome to contact the investigating officer to check progress.

12. Possible outcomes of the Council's planning investigations

In most cases, a breach of planning control is identified, and no action is taken. In cases where a breach is identified, in accordance with Government guidance the Council will seek to secure a negotiated solution unless there is substantive unresolvable harm that requires immediate action. Adequate time must be allowed for compliance to be achieved.

The table below shows potential outcomes for investigations.

Outcome of the investigation	Action taken
No breach – No development has taken place; the development is permitted by The Town and Country (General Permitted Development) Order 2015; or is not within the control of planning legislation.	The case will be closed, and no further enforcement action taken. The complainant will be informed of the closure and the reason for this.
Breach identified but action not expedient – e.g., the development is marginally larger than permitted development limitations and does not result in unacceptable harm. In such cases it would not normally be expedient to pursue formal action.	A retrospective application may be invited to regularise the development, or a delegated report prepared seeking authorisation for the case to be closed and no further action taken.
Development is immune from action – The development or use has been in existence for a period of time which makes it exempt from enforcement action.	Where the case is not priority 4 a report will not be prepared and the case closed.
Breach ceased (negotiation) – In line with the National Planning Practice Guidance, the breach has ceased following negotiation.	An application may have been invited; appropriate time given for the removal of the structure or cessation of the use; or alterations made to the development to resolve the case.
Formal Action – The development causes unacceptable harm and amendments cannot be made to resolve the harmful impacts of the development or use.	Formal action will take place. This is a lengthy process if negotiated solutions cannot be achieved. Adequate timescales for compliance with formal action must be provided by the Council.

	A Temporary Stop Notice <u>will not</u> be issued where there is a current and undecided discharge of condition application.
--	--

13. Monitoring of development for compliance

The Council as Local Planning Authority (LPA) will seek, where resources allow, to pro-actively monitor large-scale development to ensure compliance with planning approvals. This will be in accordance with the risk based principle and targeting principle. Due to the number of planning permissions granted each year it is not possible to monitor all development. The LPA will continue to rely upon the knowledge of local people, Ward members and Town and Parish councils to identify matters of non-compliance.

Appendix 1 - Types of formal enforcement action

If negotiation cannot secure a resolution to the case the Council will consider use of discretionary powers to take enforcement action. The nature of the breach will dictate what action will be most appropriate. The tools available include:

Enforcement tool	Definition
<p>Planning Contravention Notice and requests for information</p>	<p>In order to confirm the existence or nature of a breach, a Planning Contravention Notice (PCN) may be served under S171C of The Town and Country Planning Act 1990 (as amended). As well as clarifying the details in relation to a suspect breach, the PCN serves as a statement of intent of enforcement action by the LPA, formally demonstrating that it takes the matter seriously. The PCN offers the contravener an opportunity to meet officers to agree a plan for remedial measures. Failure to respond within time or not at all, or replying with false or misleading information, constitutes a criminal offence under Section 171D of the Town and Country Planning Act 1990 (as amended)⁶ and may lead to a penalty of up to a maximum of £5,000⁷.</p> <p>A notice under s.16 of The Local Government (Miscellaneous Provisions) Act 1976 or s.330 of The Town and Country Planning Act 1990 (as amended) can be issued with respect to specific matters only (for example; names, addresses and nature of interest; and use of a premises, dates and names, addresses and interests of users respectively). Land Registry searches into ownership of land can be undertaken.</p>
<p>Enforcement Notice</p>	<p>An enforcement notice can be served under Section 172 of the Town and Country Planning Act 1990 (as amended)⁸ and is the principle tool to remedy a breach of planning control. It imposes a legal duty on those with an interest in the land to affect measures specified in the notice within a specified period of time (no less than 28 days). Recipients may appeal to the Planning Inspectorate, during which time the notice is held in abeyance until the appeals determination.</p> <p>Enforcement Notices are entered in the Land Charges Register and Planning Enforcement Register and run with the land, remaining effective in perpetuity, even once complied with. Non-compliance constitutes a criminal offence for which recipients may be prosecuted and if found guilty are liable to a fine up to £20,000</p>

⁶ <http://www.legislation.gov.uk/ukpga/1990/8/section/171D>

⁷ <http://www.legislation.gov.uk/ukpga/1982/48/part/III/crossheading/introduction-of-standard-scale-of-fines>

⁸ <http://www.legislation.gov.uk/ukpga/1990/8/section/172>

	<p>together with costs and a criminal record or an unlimited fine on indictment⁹.</p> <p>Section 171B¹⁰ of the Town and Country Planning Act (1990) as amended sets time limits within which the LPA can take planning enforcement action these are:-</p> <ul style="list-style-type: none"> • Four years for building, engineering, mining or other operations in, on, over or under land, without planning permission. This development becomes immune from enforcement action four years after the operations are substantially completed. • Four years for the change of use of a building, or part of a building, to use as a single dwelling house. Enforcement action can no longer be taken once the unauthorised use has continued for four years without any enforcement action being taken. • Ten years for all other development. The ten year period runs from the date the breach of planning control was committed. <p>However, where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action has expired. In such cases an enforcement order can be obtained which would enable the LPA to take action in relation to an apparent breach of planning control notwithstanding that time limits may have expired¹¹.</p>
Listed Building Enforcement Notice	<p>This is the equivalent notice available under Listed Building legislation¹². Works to a Listed Building do not benefit from the time limits for enforcement action imposed by The Planning and Compensation Act 1991. Therefore, this notice may be issued at any time.</p> <p>The same penalties apply to non-compliance with a Listed Building Enforcement Notice as to an Enforcement Notice. Any person who executes or causes work to be executed for the demolition of a Listed Building or for its alteration or extension in any manner will be guilty of an offence under s. 9 of the Planning (Listed Building and Conservation Areas) act 1990 (as amended) and if found guilty of an offence shall be liable</p>

⁹ <http://www.legislation.gov.uk/ukpga/1990/8/section/179>

¹⁰ <http://www.legislation.gov.uk/ukpga/1990/8/section/171B>

¹¹ Paragraph 024, Reference ID:17b-024-20140306, National Planning Practice Guidance

¹² <http://www.legislation.gov.uk/ukpga/1990/9/part/II/chapter/IV>

	on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding £20,000, or both; or on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both ¹³ .
Breach of Condition Notice	This remedy is available in the event of non-compliance with a condition on a planning permission. There is no right of appeal and the penalty for non-compliance is a fine up to £2,500 ¹⁴ .
Stop Notice	In the most serious of cases the LPA may decide to issue a Stop Notice. Such notices can only be served in conjunction with an Enforcement Notice. They can require cessation of unauthorised activities where they cause severe harm to local amenity. The duty to comply is universal and not limited to recipients of the notice. The improper use of a Stop Notice may result in the LPA being liable for compensating owners and/or occupiers for losses directly attributed to the service of the notice. The fine for breaching a Stop Notice is currently £20,000 with an unlimited fine on indictment ¹⁵ .
Temporary Stop Notice	It is effective immediately and does not require the prior service of an Enforcement Notice. They last for a maximum of 28 days and cannot be renewed unless an Enforcement Notice is served. The fine for a breach a Temporary Stop Notice is the same as for a Stop Notice.
Court Injunction	This may be sought in the most serious of cases to restrain anticipated breaches as well as prevent actual breaches. Non-compliance is considered to be in contempt of Court and may result in a fine and/or imprisonment.
Untidy Land (s.215) Notice	Notices under s.215 of The Town and Country Planning Act 1990 (as amended) can encompass buildings as well as land. The LPA need only show that amenity is adversely affected by the state of the premises. Appeals are to the Magistrates' Court and non-compliance is a criminal offence for which recipients may be prosecuted and are liable to a fine of up to £1,000 ¹⁶ .
Advertisements	Advertisements, other than those exempt under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ¹⁷ , require consent. Any person who displays an advertisement in contravention of the Regulations is guilty of an offence under s. 224 (3) of The Town and Country Planning Act 1990 (as

¹³ <http://www.legislation.gov.uk/ukpga/1990/9/section/9>

¹⁴ <http://www.legislation.gov.uk/ukpga/1990/8/section/187A>

¹⁵ <http://www.legislation.gov.uk/ukpga/1990/8/section/187>

¹⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11491/319798.pdf

¹⁷ <http://www.legislation.gov.uk/uksi/2007/783/contents/made>

	<p>amended) and would be liable to a fine upon conviction of up to £2,500¹⁸.</p> <p>A Discontinuance Notice can be served in respect of adverts that have deemed consent; this is the relevant power where the LPA consider that an advertisement is not appropriate or dangerous. The notice cannot take effect less than 8 weeks after service and the notice carries a right of appeal¹⁹.</p>
Prosecution	<p>Prosecution is one of the remedies available in respect of a breach of any of the notices listed above (excluding Court Injunctions) and this action will be taken where there is sufficient evidence and it is in the public interest in accordance with the Code for Crown Prosecutors²⁰.</p> <p>If found guilty of the offence the Defendant may incur the costs of the LPA in bringing the prosecution; any resultant fines imposed; any costs incurred themselves directly in seeking legal representation; and have a resultant criminal record.</p>
The Proceeds of Crime Act 2002 ²¹ (POCA)	<p>The Act provides for the confiscation or civil recovery of proceeds of crime. POCA deals with a wide range of matters relevant to planning. Including confiscation orders against convicted individuals (requiring payment to the State based upon the benefit obtained from their crimes) and civil recovery of proceeds of crime from unconvicted individuals. Where a prosecution concerns offending conduct falling within the relevant tests under the Proceeds of Crime Act 2002, the Council will consider seeking a confiscation order to remove the benefit obtained from such criminal conduct. This sends a clear message 'that crime does not pay'.</p>
The Powers of Entry	<p>The Powers of Entry the LPA has to investigate potential breaches of planning control are;</p> <ul style="list-style-type: none"> • S. 196A, s. 196B (Power of Entry following issue of a warrant) and s. 196C (supplemental provisions relating to Power of Entry) of The Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 2004). • S. 214B, 214C (Power of Entry following issue of a warrant) and s. 214D (supplemental provisions relating to Power of Entry). • S. 225 of the Town and Country Planning Act 1990 (only entitles access to buildings which have public access).

¹⁸ <http://www.legislation.gov.uk/ukpga/1990/8/section/224>

¹⁹ <http://www.legislation.gov.uk/uksi/2007/783/regulation/8/made>

²⁰ https://www.cps.gov.uk/publications/docs/code_2013_accessible_english.pdf

²¹ <http://www.legislation.gov.uk/ukpga/2002/29/contents>

	<ul style="list-style-type: none"> • S. 324 and 352 (supplemental provisions relating to Power of Entry) pursuant to the Town and Country Planning Act 1990. • S. 36 and 36A (Power of Entry following issue of a warrant) of the Planning (Hazardous) Substances Act 1990. • S. 88 of the Planning (Listed Building and Conservation Areas) Act 1990. • S. 24 of The Local Government (Miscellaneous Provisions) Act 1976. • S. 33 of The Local Government (Miscellaneous Provisions) Act 1982.
Direct Action	Direct Action involves the Council undertaking the work specified in the notices.

DOCUMENT 2

Middleton On Sea PC

- 1) We are concerned that this proposed strategy has been rushed through without giving Parish Councils a suitable amount of time to review the proposals and to take into account the need that any proposed strategy meets the needs of local residents
- 2) We understand that Arun DC Planning has a shortage of staff and this has been the position now for some time. If this proposed strategy is to take away the need for additional staff and to place the onus back on Parish Councils/local residents to carry out the reporting of planning breaches then we would suggest that Arun DC state what they plan to do with regard to planning enforcement staff numbers in the immediate future
- 3) With regard to the reporting of planning breaches that the public feel are necessary to report the information required by people who are not experts in this planning issue is extensive and may not in all cases be available and will therefore make the reporting of the breach outside of the rules and will not be investigated. Will there be some form of assistance so that those reported breaches that are not investigated will inform the complainant of what additional information is needed.
- 4) Reporting a breach – complaints from members of the public will only be accepted on the online form via email. What about the members of the public who do not have access to or use a computer?
- 5) Presumption that minor breaches will not be dealt with – how can residents talk through their problems?
- 6) Advise residents to contact their Parish Council for advice on whether there is a breach or not and how it should be reported.
- 7) Provide the Parish Council with Permitted Development Planning Approvals within their parish to enable both Parish Councils and local residents to be aware of these approvals that do not go through the usual advice to Parish Councils
- 8) If Arun DC Enforcement Officers do not have time to discuss problems, the problem does not go away residents need answers. Residents will feel that this service is not fit for purpose
- 9) Diversity, Equal Opportunities and being inclusive – this proposed strategy does not cover these principles and will exclude a large number of people who have issues with planning breaches and are not able to meet the requirements laid down in this report.

Felpham PC

1. An updated Planning Compliance Strategy was presented to the ADC Planning Committee on the 25th May. This had not previously been seen by stakeholders such as Parish Councils. This appears contradictory to the aspirations of National Government, which is to encourage greater involvement at a local level. We would welcome any comments on this.
2. The introductory heading sheet does not make it clear as to what has precipitated this review. The external review of the Planning department was circa 3 years ago, pre pandemic although this was mentioned in the introductory

sheet. Again, the introductory sheet does state that the department should have a full complement of 5 enforcement officers. However currently it only has 1 part time officer. It does NOT state however that this is the reason for this updated strategy. Thus, it does not make it clear whether this is a temporary strategy to overcome a shortage of staff or is indeed the future permanent strategy going forward. There is no mention in either document as to what has caused the shortfall of staff, over what period or indeed what steps have been taken to recruit and eliminate/reduce the shortfall of staff. Neither does either paper describe whether this updated strategy would be required in there were a full complement of staff or whether a full complement of staff would still require the introduction of this revised strategy. Could we ask for an update on how ADC are progressing on resolving the recommendations made during the review 3 years ago please? Yet the purpose of planning enforcement is to investigate alleged breaches of planning control, taking enforcement action where appropriate. If the breach affects the private interests of one person, it can still be a breach.

3. The accompanying introduction does not include a timetable of the ongoing process, recruitment process or any target dates for implementation if the updated strategy is approved.
4. Neither paper states a review process or period if the updated strategy is approved. The emphasis on "significant" is open to interpretation and gives a potential green light to planning breaches and environmental damage
5. Neither paper states that the Planning department will report back to the ADC Planning Committee on the performance of enforcements against the targets post introduction. We feel, as a matter of public interest there should be a detailed list/table of performance, indicating the statistics relating to how many requests/actions/conclusions associated with enforcement take place.
6. The introductory paper does not detail any definitions against which the decisions on enforcement are progressed or not. Who will make these decisions?
7. Neither paper states who will decide the definitions against which enforcements are judged.
8. The introductory paper mentions the Hannaby Planning Solutions Ltd review but does not state what recommendations from that review are being introduced and against what timetable.

Main Paper

9. In the main paper section 4 there is no definition of "**Significant**" nor is there a name/position of the person who will determine the scale of "**Significant**". We feel this needs to be set down in a standard and NOT based on an individual's determination. To do so brings a level of personal opinion which will almost certainly not understand or be aware of any local or specific issues associated with any application.
10. In the main paper section 4 there is a statement "Where resources permit"- who will determine how this is defined against what criteria? As above
11. In the main paper section 5 there is no definition of "**proportionate**" nor is there a name/position of the person who will determine the scale of "**proportionate**"
As above.

12. In section 6 who will monitor and enforce enforcement notices? Against what timescale?
13. In section 6 who will monitor and enforce Temporary Stop notices? Against what timescales? It is known that currently temporary stop notices are not monitored and do lapse.
14. Section 6 page 4 - bullet point 7 - how is "reasonable time" defined and by whom?
15. Section 6 page 4 - bullet point 9 - how is "proportionate" defined and by whom?
16. Section 6 page 4 - bullet point 9 - how is "the Council" defined - position/committee?
17. Section 7 page 6 - bullet point 3 - how is "Significantly" defined and by whom?
18. Section 7 page 6 - paragraph 1 - how is "acceptable" defined and by whom?
All of the above place a high dependency on someone being available to make these decisions. Given one of the key drivers for this proposal is lack of resources how can there be any confidence that any resources will be available routinely to make these decisions. It is simply adding another workload on the same department, or more worryingly these decisions could be made by someone who is not fully conversant with any particular situation or competent to make such a decision. This in itself opens up ADC to criticism and challenge.
19. Section 8 page 6 - How will any complainant know which priority group a particular case will be in and thus how a complaint might be made?
20. Section 8 page 6 - the criteria and amount of information required for a complaint to be registered is too onerous, technical and detailed for a member of the public to effectively and appropriately make a complaint. For example -
 - Estimated or real measurements - how can this be achieved especially if the breach is on private property.
 - Name, address, and phone numbers - maybe impossible for a member of the public to know or secure however this is stated as a minimum requirement.
 - The precise location - might be impossible to secure especially on private land but again stated as a minimum requirement.

The above and 8 other criteria are stated in bold **"Failure to supply all the above information may result in your report being returned without investigation"** yet this fails to recognise that general members of the public might find ALL this information difficult or indeed impossible to obtain. All of the above make it very difficult to apply.

21. Section 8-page 7 3rd line - how is "expedient" defined and by whom? See point 18 comments.
22. Section 10 page 7 - how will a potential complainant know the priority classifications and who will determine the priority each case be placed?
23. Section 11 page 9 - who will monitor the performance of enforcements against the targets, where will this performance be reported to. Will the performance targets be reviewed? See point 5 comments.
24. Section 12 page 10 - 2nd criteria - who will determine "expedient" and against what criteria? See point 18 comments.

Conclusion

The strategy does leave too many terms, on which decisions are based, as undefined and open to interpretation which may vary from officer to officer leading to inconsistent decisions. Additionally, there does appear to be much onus placed on the complainant to gather information, that they may not be able to and almost certainly will not be expert in this field, before a complaint is even registered.

There is a great danger we feel that this strategy has the potential of being a charter for making potential complaints very onerous and is defensive in its nature. It also has the potential, we feel, of being a charter to prevent complaints and for no action to become the norm. The resourcing issues needs to be addressed and the targets for enforcement need to be more challenging to ensure that the priority will be on compliance with Planning law and regulations and not a focus on resourcing which should be incidental rather than the main focus.

Enforcement should always be the last resort however it should be appropriately used, when necessary, without the fear of lack of resources being a driving concern or outside constraints. FPC believe that the Planning department should be a fair service to all residents of Arun, be impartial and adequately resourced to be an exemplar service that ADC can be proud of.

Other councillor concerns and comments received:

The strategy puts forward to reorganise the planning dept without the staff to deal with it. This must be the priority with named persons to deal with the different levels of breach.

Previously the list of these staff was sent to councils so that we could direct residents to the correct section of ADC.

Recently we have advised them to go direct re the golf club applications and this meant that ADC had to cope with more than our detailed objections.

Given that this made ADC look more closely especially since Southern Water had not been consulted.

Given the lack of staff who will be available to deal and sort out the different levels of complaint issues on breaches and who will be there to deal with this together with enforcement?

Given that parish councils are the most knowledgeable re local conditions why were they not consulted first?

ADC needs to create a hub where all interested parties can put the best way forward. Without these, developers could benefit and can go ahead without the infrastructure being in place to assure residents that Felpham is a pleasant place to live.

- **2 The purpose of planning enforcement**

“They cannot be used to protect the private interests of one person against the activities of another”

Yet the purpose of planning enforcement is to investigate alleged breaches of planning control, taking enforcement action where appropriate. If the breach affects the private interests of one person, it can still be a breach.

- **4 Planning enforcement objectives**

“To remedy **significant** harm caused by unauthorised development.”
The emphasis on “significant” is open to interpretation and gives a green light to planning breaches and environmental damage.

- **6 General Principles**

“The use of enforcement powers is discretionary and carrying out development without planning permission, although unauthorised, is not illegal.”

This again gives a green light to unauthorised development and fails on environmental protection. For example under the National Planning Policy Framework : Habitats and biodiversity 179, it states: *To protect and enhance biodiversity and geodiversity, plans should: a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁶¹; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁶²; and b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

A recent example of this is unauthorised change of use of land is east of Heath Place, Bognor Regis which adjoins the rife and where the land was rich in habitat and protected species and was completely cleared with heavy earth moving vehicles in 2022. When a complainant rang ADC Planning they were told by phone: “Due to resignations, there were no enforcement officers, and no one could look at it for two months.”

- **Page 4 (part 6) : Anonymous complaints will not be investigated**

This is wrong as there will be cases of serious breaches of planning control where a person will not want their name mentioned. These must be investigated even if they come to nothing. There may also be other issues that come to light from anonymous sources reporting planning breaches which should also be referred to the appropriate authority, such as police, health and safety or Environment Agency by any responsible planning authority.

- **7 What is a breach of planning control**

“Felling a tree not within a conservation area or protected by a TPO”
Some areas of land within Arun have many trees that are not protected by

TPOs. However, felling and clearance could indicate change of land use or destruction of protected species.

Such reports should be investigated and not dismissed out of hand.

- **8 Reporting a breach**

Reports can “only be made using the on-line form.”

“Emails and phone calls may be accepted for priority 1 cases only”

This is all wrong as many elderly people or those without internet access could then be excluded from reporting planning breaches, as are those with limited time. Priority 2 which includes “serious harm to the environment” can therefore be ignored.

- **Reported breach must include (as a minimum)**

This then lists a huge number of demands with the threat that “failure to supply all the information may result in the report being returned without investigation.”

This is all wrong and is clearly a way out of investigating planning breaches.

- **11 Investigating a breach of planning control**

Priority 2 and 3 cases are 15 and 20 days to investigate, respectively. This is too long. Particularly as 2 is “serious harm to the environment.”

Further, reporting of outcome to the complainant and site owner is 90 days. This could mean over 5 months?

- **12 Possible outcomes of Council’s planning investigations**

Development is immune from action “development has been in use for a period of time.” This ‘time’ should be explained as a well-used ruse by unscrupulous developers is to claim continuous use.

- **13 Monitoring of developments for compliance**”it is not possible to monitor all development”. Therefore, “The LPA will continue to rely on the knowledge of local people, Ward members and Town and Parish Councillors to identify matters of non-compliance.” However, see 8: Reporting a breach. Here it states emails and phone calls will be ignored, and even if the on-line form is filled out, unless “all” of a huge list of information fields are completed, “the report may be returned without investigation.”

Littlehampton TC

Thank you for providing the opportunity for the Town Council to comment upon the revised Strategy. Members reviewed the revised document at the Planning and Transportation Committee on Monday 20th June 2022 and discussion focussed on the prioritisation of cases and the reporting mechanism.

Members are of the strong view that every breach, however minor should be recorded. As with crime and antisocial behaviour, Members considered it imperative that residents had confidence in the system and are encouraged to report breaches, however minor. There is concern that if minor breaches are not registered, important evidence will be lost that could prevent a minor issue becoming a major breach. This also goes against the District Council's objective relying "on the knowledge of local people, Ward members and Town and Parish councils to identify non-compliance matters of the Strategy" – Section 13 of the Strategy. It is also thought that this could severely limit the District Council's ability to respond meaningfully to Freedom of Information requests.

Members are very concerned to see that houses in multiple occupation are classed as a minor breach. The Committee is firmly convinced that this should be categorised as a major breach.

Observing the minimum detail requested to report a breach, Members also consider it important that the Strategy reflect that these investigations should be undertaken taking into account specific times of breaches. This will reassure residents that a complaint has been both understood and thoroughly investigated.

Finally, emphasising that the Strategy is only effective if it is properly enforced, Members considered it important to highlight that this area of the District Council's work urgently needs to be better resourced with both staff and an effective reporting mechanism.

Overall, it is considered that in streamlining the Strategy, some of the changes may not be in the best interests of residents and do not accurately reflect issues that are commonly raised with and by Councillors.

We hope that the District Council will take these points into consideration when finalising the Strategy.

Kingston PC

Council agrees in principle to the change in Strategy whilst there is a shortage of staff, but Council considers compliance an essential service if there is to be fair play for residents across the District. Whilst the majority will observe planning regulations there are sadly a good few who will push the rules to get what they want, and this should be prevented.

Bersted PC

Members discussed the strategy and agreed to make the following comments:
The Compliance Strategy appears contradictory to the aspirations of National Government, which is to encourage greater involvement at a local level, and it is noted that the last paragraph from the current 2019 document about relying on local people and towns/parishes has been removed.

It is noted that there are no changes to what does and does not constitute a breach of planning control, and some areas have been given clearer explanations. However, will

the priorities numbered 1 to 4 be fully understood by members of the public wishing to report a possible breach?

New online reporting form that must be completed with all the relevant information otherwise it will be returned without investigation. Members feel this will obstruct those that do not have access to a computer or smart phone, would a paper form be available to complete? Also, concerns that if some information is missing from the form and cannot be found the possible breach will not be looked at.

Concerns about what constitutes a significant breach as mentioned at paragraph 4 and in the same paragraph "where resources allow, be proactive regarding monitoring of large-scale strategic sites. What happens if resources don't allow, which is currently the case, and other smaller developments not classed as strategic site have breaches?

In conclusion Bersted Parish Council feel that current situation regarding a lack of enforcement officers needs to be rectified as soon as possible otherwise the proposed Planning Compliance Strategy has no backbone to bring it forward.

Ferring PC

Staff in a number of roles within the organisation. We also acknowledge that there is an impact on the ability of ADC to currently meet its expected response and performance objectives.

In respect of the Compliance Strategy review, Ferring residents have encountered the longer-term consequences of the failure of the Local Planning Authority to act in a timely and resolute manner in what may be deemed relatively low impact contraventions of planning compliance, resulting in established use claims, for example. Such claims have been particularly detrimental to areas such as the Angmering / Worthing gap with the creeping industrialisation of previously agricultural land on the slopes of Highdown Hill.

As development intensity increases, contraventions of approved planning applications which may, on a desktop review, be considered 'minor' but only serve to encourage further violations which may cause distress to other householders and have a very real and tangible impact on their lives. There is a reasonable impression by residents and the P.C. that this is becoming increasingly common. There is an established process for NMA's which should be upheld and where the variation is material, appropriate planning consent should continue to be sought.

Planning policies and the considerable investment in Neighbourhood and Local Development Plans need to be seen to be upheld without which dissatisfaction levels with the Planning Authority will continue to rise. As contraventions are increasingly known to not be pursued, the number of cases is likely to increase as a direct result.

The strategy review does suggest some initiatives, which officers recommend, to improve the effectiveness of the compliance operations and clearly there is a need to prioritise the most harmful with the most experienced officers in a timely manner. However, section 4.0 OPTIONS implies that eliminating categories of complaints from

the record would serve to reduce customer dissatisfaction figures. While that may be reflected in the figures, it does not reduce the dissatisfaction of the residents. Manipulating the basis of the statistics will not resolve the issues being faced by ADC or residents and is unlikely to lead to a true reduction in dissatisfaction.

If the figures reflect the challenges the Local Authority is experiencing, the authority should be presenting them alongside a strategy improvement plan, not seeking to change the basis the stats. If the data reflects the truth then that is what should be reported so that the community has a true picture and understanding of the situation, issues should not be hidden.

Whilst acknowledging that it is not within the remit of Parish and District Councilor's to be actively involved in planning enforcement; it does not appear that consideration has been given to the potential for parishes to support their District Councilor's in providing the background to specific planning aspects,

We would therefore urge ADC to engage with District Councillors 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.

Rustington PC

I have to say that my Council is very concerned regarding the current strength of the District Council's Enforcement Team and the deterioration that has occurred during the last year or so. To an outsider it would appear that it has been mismanaged by not flagging up the serious position at a much earlier stage. It is imperative, in my Council's opinion, that all avenues must be pursued urgently to raise the strength at the earliest opportunity. If developers or household applicants become aware of the current minimal strength, it would not be surprising to find that contentious issues are left out of proposals in the hope that they could be quietly introduced during the development.

Obviously, the existing Compliance Strategy has been amended so that less action will be expected when breaches have been recognised or reported. However, the commitments stated in the new Strategy bear little resemblance to the current strength of one part-time member of personnel. The timing of introduction could, therefore, be questioned as it relates to an increased workforce.

It is stated that the purpose of the amended Strategy is to streamline the approach so that only breaches that are harmful are given priority. My Council would argue that breaches in Priority 3 or 4, as raised by the public, are also 'harmful' and that it is important to give positive feedback otherwise total dissatisfaction will occur. It may be viewed as a minor breach but to a member of the public it could be far more important. If someone can take the trouble to complete an online form with a minimum of eleven headings, and also supply a photograph, then a response is surely justified.

This Council has already experienced embarrassment regarding the eyesore structure at 66 The Street, Rustington, which was raised with it by two neighbouring residents, but the complaint was simply filed as there were no personnel to deal with it.

The wording on the amended Strategy is, therefore, questionable as an on-going document. It is also of concern as to whether it should be introduced at this present moment. If it is decided to go ahead, then my Council believes a review date of say six months ahead should be set.

Aldwick PC

The document is woolly and open to subjective interpretation and Members fear that lack of proper enforcement resulting from this lack of definition will lead to a diminution of the amenity value of Aldwick.

Is this a genuine consultation, given that only an 'informal consultation' with parish councils is referred to (*Report To and Decision of Planning Committee on 25 May 2022*)?

Is this document the result of a lack of planning officers and if so, should this be remediated rather than changing the planning enforcement protocol?

Specific Points:

- Planning Enforcement Objectives (p.2) What constitutes 'significant' harm? Too subjective.
- General Principles (p3) The use of enforcement is discretionary – again, very woolly.

What is a Breach of Planning Control ? (p4)

The following are classified as NOT being breaches and we have queries on them:

- (p 5) Running a business from home where the residential use remains the primary use of the development – How is this proved? It seems subjective and open to abuse.
- Parking of caravans on residential drivewaysas long as they are incidental to the enjoyment of the property. Again, entirely subjective and open to abuse.

Minor Breaches of planning control that may not be investigated:

- Fences that are not harmful to amenity – entirely subjective again.
- Untidy land unless significantly detrimental to amenity – subjective again.

Case priority

- How will you meet priority 1 cases with only 1 part time member of staff.

We would add that you have a compliance case ongoing ENF/356/18 - 79 Lincoln Avenue first reported to Compliance June 2019 – this has not been concluded and is causing significant harm to the surrounding properties – we would like you to put this to the Planning Committee for their feedback and conclusions - and how your Planning Compliance Strategy would provide a better service than the appalling one we and the properties in Lincoln Ave have so far received.

Finally we request that our comments are relayed to the planning committee and that their response be made known to us before these changes are formally enacted.

Bognor Regis TC

Members considered the changes proposed in ADC's Planning Compliance Strategy (May 2022) and discussed in some detail the full contents of the updated document.

In reference to the ways in which breaches could be reported, as outlined in Section 8, concern was expressed by Members that only allowing for priority 1 cases to be reported by email or telephone would be putting hurdles in the way of reporting breaches falling within priorities 2-4. Insisting that breaches of lesser priority be reported using an online form was seen as prohibitive to those without access to the internet.

With Members of the Committee aware of the frequent public objection to planning applications involving HMOs in Bognor Regis, it was felt that breaches in relation to these types of properties should be in priority 2, rather than 4 as proposed in the Strategy.

Members noted that under 3.3 of the report to ADC's Planning Committee on 25th May 2022 it was stated that, due to difficulties in recruiting, instead of a full complement of 5 enforcement officers there is currently only one part time officer. As a result of this, the Council are unable to deal with the number of enforcement cases that they continue to receive. It is understood that this has led to the revised Strategy with a view to streamlining the process.

As an alternative to updating the Planning Compliance Strategy, the report suggests that the Strategy could remain the same but that this comes with the danger that customers will be given unrealistic levels of service that will mean that more unsustainable levels of complaints will be received with an increase in customer dissatisfaction.

Members agreed to submit the comments above in relation to reporting breaches and HMOs, as detailed in the proposed updates, to ADC. However, in responding to the consultation, Members also agreed to inform ADC that the Town Council would prefer for Arun to stick with the current Planning Compliance Strategy and focus instead on recruitment to address the lack of enforcement officers.

Please ensure that the views of Bognor Regis Town Council are presented to the next available Committee.

Clymping PC

Clymping Parish Council raise a number of concerns in relation to the updated planning compliance strategy as Council feels it will not be of value to the community. The 'strategy' feels rather like planned retreat for our coastline and reclassifying criminal offences to non-offences to reduce crime figures.

The strategy is that ADC will not act on all breaches of Planning Control only those regarded by the officers as "significant". Whilst Council accepts that action is discretionary and that in some cases as non-material technical breaches can occur, the definition of "significant" will prove far from transparent.

This will leave the community exposed to the vagaries of the Planning Department thinking and to the developers who will work the system. It will also lead to an increase in calls for Councillors to intervene on residents' behalf.

ADC seems unable to manage, to hold, or recruit for the planning department which perhaps suggests something about the culture of this failing department. Downgrading problems to non-problems, or downgrading responsibilities so there aren't any is not the service the community deserves. This is a matter the district councillors need to get a grip on urgently. It would be advantageous to understand how other similar authorities recruit and hold their personnel.

Pagham PC

- The problem is not the Strategy, it's the lack of staff to apply it. No mention is made of what is being done to address the reason for the lack of officers. Simply recruiting isn't sufficient if retention is the issue. Why do staff members leave? Why is it hard to recruit in the first place? Funding the posts at market rate should not be difficult given the fact that fees can be charged for planning applications. What is being done to address this wider issue? Enquiries were made (and ignored) about this in April 2022.
- Real concern that proper effective monitoring and enforcement for the huge number of houses to be built in Pagham will be compromised. Hook Lane developers have already commenced development without satisfying all the relevant pre-commencement conditions. Others will do similar if investigation may take 15 working days. Summer Lane has experienced continuous problems and required investigation and monitoring since outset including the use of a temporary stop notice. At the development behind the Inglenook Hotel, issues which (in the opinion of members of ADC's own Planning Committee) should have been subject to a temporary stop notice were allowed to continue resulting in development which residents do not consider to be suitable. Issues persist with unlawful development involving agricultural works accommodation. This is just in Pagham, and watering down the response available will not stop the problems we are experiencing.
- If residents don't feel their concerns are being listened to as enforcement issues, they will resort to making formal complaints which will also need to be dealt with by ADC, with the original breach still unresolved.
 - What is the plan to deal with the backlog of current cases?
 - Proposed Strategy dilutes the effectiveness of planning system controls.
 - Will reduce public faith in the process as developers go unchallenged quickly and efficiently. This is summed up by the removal of the phrase "ensure credibility of the planning system is protected not undermined".
 - All the recent cases raised for strategic or large sites in Pagham would have been treated as Priority 2 and 15 working days is too long to wait potentially for a site visit. Damage is done by this point or plans ruined – see Jubilee weekend complaints over Hook Lane.
 - 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.

- Move to online only reporting unacceptable as many elderly residents of Pagham do not use the internet.
- Removal of duty planning officer only likely to increase caseload elsewhere as simple queries are not addressed.
- Watering down of potential responses from ADC – use of temporary stop notice downgraded from “will” to “may”.
- Information required to report a suspected breach is too onerous. Level of detail required is too technical in some cases. Returning cases uninvestigated is not appropriate – better guidance on missing information should be offered.
- Not recording priority 4 cases will falsely give the impression that the number of breaches is decreasing.

For these reasons, Pagham Parish Council asks Arun District Council to think again and solve the crisis in the Enforcement team in a different. Ultimately residents will suffer as a result if this new Strategy is implemented.

Barnham and Eastergate PC

Barnham and Eastergate Parish Council are concerned that there is no clear enforcement strategy for issues other than significant harm. The signal that this sends to the public and bigger developers is that there are no restrictions and that they can essentially “do what they like” with little or no repercussions.

Yapton PC

The Committee noted receipt of an e-mail dated 10th June 2022 from Juan Baeza of the Planning Department at Arun District Council. The e-mail stated that the Arun Planning Committee held on the 25th May 2022 considered a report setting out a proposed Updated Planning Compliance Strategy. The e-mail with the attachments were circulated to all Parish Councillors on the 12th June 2022.

The Members of the Arun Planning Committee resolved to defer considering further the updated strategy until the views of all the Parish and Town Councils were sought. Once their views were gathered, they would be presented to the next available Committee for a formal resolution to be agreed.

As a result, the District Council was now seeking the views of the Parish Council on the report and updated compliance strategy. The Parish Council was asked if it could provide any comments by no later than 8th July 2022.

The Planning Committee **resolved** not to send any detailed comments on the updated compliance strategy but to ask the District Council to bear in mind any neighbouring parishes when considering what action it might take.