Scrutiny Committee

* Thursday 25 May 2017

9.30 am, Cavell and Colman Rooms
South Norfolk House, Cygnet Court,
Long Stratton, Norwich, NR15 2XE

If you have any special requirements in order to attend this meeting, please let us know in advance
Large print version can be made available

Contact: Sue Elliott on 01508 533633 or democracy@s-norfolk.gov.uk

* Please note change of day
Members of the Scrutiny Committee:

Cllr T Lewis (Vice-Chairman)
Cllr B Bernard

(Conservative Group Members to be confirmed)

This meeting may be filmed, recorded or photographed by the public; however anyone who wishes to do so must inform the chairman and ensure it is done in a non-disruptive and public manner. Please review the Council’s guidance on filming and recording meetings available in the meeting room.
Agenda

1. To report apologies for absence and identify substitute voting members (if any);

2. To deal with any items of business the Chairman decides should be considered as matters of urgency pursuant to Section 100B (4) (b) of the Local Government Act, 1972. Urgent business may only be taken if, "by reason of special circumstances" (which will be recorded in the minutes), the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency;

3. To receive Declarations of Interest from Members;  
(Please see guidance attached page 6)

4. To confirm the minutes of the Scrutiny Committee meeting held on Wednesday 10 May 2017;  
(attached - page 7)

5. Review and Evaluation of the Effectiveness of the Council’s Compliance and Enforcement Policy with respect to Planning, Appendix 3 of this Policy;  
(attached - page 13)

6. Scrutiny Work Programme and Cabinet Core Agenda;  
(attached - page 42)
Working style of the Scrutiny Committee and a protocol for those attending

Independence
Members of the Scrutiny Committee will not be subject to whipping arrangements by party groups.

Member leadership
Members of the Committee will take the lead in selecting topics for and in questioning witnesses. The Committee will expect members of Cabinet, rather than officers, to take the main responsibility for answering the Committee’s questions about topics, which relate mainly to the Council’s activities.

A constructive atmosphere
Meetings of the Committee will be constructive, and not judgmental, accepting that effective overview and scrutiny is best achieved through challenging and constructive enquiry. People giving evidence at the Committee should not feel under attack.

Respect and trust
Meetings will be conducted in a spirit of mutual respect and trust.

Openness and transparency
The Committee’s business will be open and transparent, except where there are sound reasons for protecting confidentiality. In particular, the minutes of the Committee’s meetings will explain the discussion and debate, so that it could be understood by those who were not present.

Consensus
Members of the Committee will work together and, while recognising political allegiances, will attempt to achieve consensus and agreed recommendations.

Impartial and independent officer advice
Officers who advise and support the Committee will give impartial and independent advice, recognising the importance of the Scrutiny Committee in the Council’s arrangements for governance, as set out in the Constitution.
Regular review
There will be regular reviews of how the overview and scrutiny process is working, and a willingness to change if it is not working well.

Programming and planning
The Scrutiny Committee will have a programme of work. Members will agree the topics to be included in the work programme, the extent of the investigation to be undertaken in relation to resources, and the witnesses to be invited to give evidence.

Managing time
The Committee will attempt to conclude the business of each meeting in reasonable time. The order of business will be arranged as far as possible to minimise the demands on the time of witnesses.
DECLARATIONS OF INTEREST AT MEETINGS

Members are asked to declare any interests they have in the meeting. Members are required to identify the nature of the interest and the agenda item to which it relates.

- In the case of **other** interests, the member may speak and vote on the matter.
- If it is a **pecuniary** interest, the member must withdraw from the meeting when it is discussed.
- If it **affects or relates to a pecuniary interest** the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting.
- Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.
- In any case, members have the right to remove themselves from the meeting or the voting if they consider, in the circumstances, it is appropriate to do so.

Should Members have any concerns relating to interests they have, they are encouraged to contact the Monitoring Officer (or Deputy) or another member of the Democratic Services Team in advance of the meeting.
Minutes of a meeting of the Scrutiny Committee of South Norfolk District Council held at South Norfolk House, Long Stratton on 10 May 2017 at 9.30am.

Committee Members Present:

Councillors: L Neal (Chairman), B Bernard, B Duffin, D Fulcher, C Gould, T Lewis, G Minshull and J Wilby

Apologies:

Councillor: K Kiddie

Substitute Member:

Councillor: T Palmer

Other Members in Attendance:

Councillors: Y Bendle, D Bills, M Dewsbury, F Ellis and M Gray

Officers in Attendance:

The Director of Growth and Localism (T Horspole) and the Senior Governance Officer (E Goddard)

Also in Attendance:

Broadland District Council:

Mr P Courtier – Head of Planning, Broadland District Council

Mr S Scowen – Economic Development Manager, Broadland District Council

Public Speaking:

Mr P Milliken – Chairman, Easton Parish Council

Dr A Boswell

Mr B Walker – Wensum Valley Alliance

10 members of the public were also in attendance
The minutes of the meetings of the Scrutiny Committee held on 25 January and 8 February 2017 were confirmed as a correct record and signed by the Chairman.

LDO GREATER NORWICH FOOD ENTERPRIZE ZONE: BROADLAND DISTRICT COUNCIL

The Chairman welcomed Mr Courtier and Mr Scowen from Broadland District Council and outlined the procedure for the meeting. Members were reminded that, at its meeting on 6 February 2017, Cabinet had requested that the Scrutiny Committee invite officers from Broadland District Council to attend a meeting of the Committee to provide further clarity as to how Broadland District Council had taken account of the representation from South Norfolk Council regarding the proposed Local Development Order (LDO) for the Greater Norwich Food Enterprise Zone. The Committee noted that their agenda papers contained the original report considered by Cabinet which had been annotated by Broadland District Council with their responses to the comments raised. Members were reminded that South Norfolk Council’s Cabinet had already resolved to support, in principle, the draft LDO on the condition that Broadland District Council incorporate all the amendments to the order, as detailed in the report. The Chairman therefore advised members that the purpose of this meeting was only to consider whether the Scrutiny Committee was satisfied that the points raised by Cabinet had been satisfactorily addressed.

The Director of Growth and Localism provided members with an overview of the planning history relating to the food hub, advising that the development of a flagship food and farming hub serving the needs of Norfolk was supported within Policy 5 of the Joint Core Strategy. He further advised that, during the South Norfolk Local Plan call for sites, the site at Honingham was the only land put forward for such development. The Committee was advised that the purpose of an LDO was to allow development to proceed without the need for further planning permission, subject to it meeting the conditions of the Order, as detailed in the report. Members were reassured that any proposed development which did not meet the necessary criteria for the LDO would be subject to normal planning permission requirements.

The Chairman invited questions and comments, to Broadland District Council’s officers, from members of the Scrutiny Committee. In response to various members’ enquiries, officers confirmed the following points:

- There were no plans to reduce business rates or offer any other incentives to attract businesses to the Food Hub. The only added benefit to potential users would be the surety that they would not need to go through the planning permission process if their development met the conditions of the LDO;
The ratio of buildings to plot area would not normally exceed 40% due to the rural setting and the desire to minimise the visual impact of the buildings;

The LDO reflected the Joint Core Strategy that required that at least 10% of the development’s energy would be secured from renewable sources;

The provision of broadband, while desirable on the site, would be the responsibility of the developer;

The requirement for all vehicles, in excess of 7.5 tonnes, associated with the construction and operation to only access the site via the permitted route would be policed by a legal agreement under Section 106, which would authorise strict enforcement action for any ongoing breaches;

As A1 retail usage was not to be permitted as a primary use and would be restricted to 10% of the area by floor space, limited retail business was envisaged at the hub.

The Local Member for Easton Ward, Cllr Dewsbury, addressed the Committee and spoke of her concerns regarding several issues including road safety in neighbouring villages, drainage and surface-water impacts, the lack of an Environmental Impact Assessment, and the reports that DONG Energy planned to lay cables under the site. In response, Mr Courtier advised the following:

- Road safety – as detailed in bullet point 5 above, construction traffic would only be permitted to access the site via the permitted route;

- Drainage – as confirmed in the amended LDO, as the site overlaid a principal aquifer, it was essential that early contact was made with the Environment Agency, and where deep infiltration was considered, a permit from the Environment Agency may be required;

- Environmental Impact Assessment (EIA) – Broadland District Council undertook screening to ascertain whether an EIA was required and concluded it was not. South Nofok Council made representations to the consultation draft of the LDO asking that Broadland District Council reassess the need. Consequently, Broadland officers wrote to the Secretary of State to obtain his opinion on the matter. In response, a letter was received from the Secretary of State which declined to issue a screening direction, advising that the District Council itself should determine whether an EIA was required. After amendments had been made, following the consultation, a re-screening request had been drafted and submitted to the Council’s barristers. The
outcome of this request was still awaited but, as the restrictions had been tightened since the original plans, it was felt unlikely that an EIA would now be required. It was however noted that any individual was permitted to carry out an EIA on the site;

- DONG Energy – it was the officers’ understanding that DONG Energy’s plans were still not finalised but it was noted that utilities were generally third-party agreements between the utility company and the land owner, and were not under the control of the LDO.

Cllr Gray raised a query regarding a possible expansion of the site in the future and questioned whether the fact that the land had been put forward for development in smaller stages had made a difference to the decision on whether an EIA would be required. Officers advised that, in the event of future sites being put forward, the cumulative effect on the whole site would be considered. It was suggested that other sites in Norfolk might be better placed to accommodate the Food Hub but it was noted that no other sites had been put forward and that while there may be land owners whose sites might be better placed, a willingness from any land owner, to accept this type of development, had to exist.

The Chairman of Easton Parish Council, Mr P Milliken addressed the Committee and expressed his concerns regarding Broadland District Council’s letter to the Secretary of State, suggesting that the request had been limited to only asking who would need to decide whether an EIA was required for the site. Mr Courtier responded, stating that the letter to the Secretary of State asking for a screening direction was a specific request, in light of South Norfolk Council’s request that Broadland District Council reassess whether an EIA was required. In response to a comment regarding Community Infrastructure Levy (CIL), the Director of Growth and Localism clarified that CIL monies from the development would not only benefit the Broadland District, but South Norfolk’s area also as it would be paid into a central 'pot' for the Greater Norwich Area. Mr Milliken stated that there had been a ‘unique opportunity’ at Little Melton for the development of a food hub where the land owner had been happy for a hub to be built. Mr Horspole assured the Committee that land at Little Melton had not been put forward either during or since the call for sites. In closing, Mr Milliken suggested that the wording on the LDO was too subjective and should be more specific.

Dr Boswell addressed the Committee and further questioned the need for an EIA. He advised members that, historically, the development had always required an EIA until the present proposal, and he requested that the Committee consider why this president had been overturned. In response, Mr Courtier advised the Committee that it was ill-advised to compare the current proposals to those considered historically as, when screened previously, the site was double the size and included a wider range of users, so the schemes could not be compared on a like-for-like basis. Dr Boswell also reminded members that South Norfolk Council’s Cabinet had raised the request for the re-assessment of the EIA requirements and he expressed his surprise that the matter was not being reconsidered by Cabinet. The Chairman reminded members that the Scrutiny Committee had been asked to focus on the comments raised by Cabinet and consider whether the points raised had been satisfactorily addressed. She drew members’ attention to the resolution by Cabinet which asked Broadland District Council to assess the need to undertake a full EIA of the proposals, and in making the reassessment, take into account the responses received from the consultation exercise. Members
were therefore requested to consider whether they were satisfied that, by Broadland District Council writing to the Secretary of State to ask they revisit the request for a screening direction, they had satisfied Cabinet’s request. In closing, Dr Boswell spoke of his concerns that the site’s proximity to a major conservation river, the River Tud, might harm the water quality in Norwich, and that this, together with concerns around DONG Energy pipes, and the potential for size creepage of the site would encourage South Norfolk Council’s members to report their concerns back to their Cabinet. Mr Courtier agreed that the River Tud was of major importance and, whilst he did not believe that the scheme would be reliant upon discharge into the River Tud but, if this was the case, a Water Framework Directive (WFD) assessment would be required and this must adequately demonstrate that there would be no deterioration in status or quality of the water.

Mr Walker, Wensum Valley Alliance, addressed the Committee and spoke of his concerns that once approved, the LDO would not be able to restrict many types of undesirable business activities. He also stated that there was no management plan for surface water, no masterplan for the development, and that the Environment Agency, Highways Agency and Historic England had various concerns. Officers reassured the Committee that the Environment Agency had reviewed the amended plans and were satisfied with the scheme. Mr Courtier advised that many of the business activities listed by Mr Walker would be classed as ‘rendering’ and would therefore not be permitted by the LDO, and that others carried a degree of pollution so would be restricted by the requirement of an Environment Agency permit. He added that officers were satisfied that sufficient controls would be in place to ensure that conditions would not be eroded, and repeated that officers were satisfied that the development did not require an EIA.

Mr Courtier addressed the Committee and spoke of the benefits of the Food Hub, stating that a significant percentage of the country’s food and drink was grown in Norfolk but that only around a half of that remained in the county to be further processed, therefore it was important, for the local economy and employment, to capture that lost business. He reassured the Committee that although the development would have an impact on the surrounding area, the intention was to seek to minimise that as far as possible.

Members were advised that the LDO would be considered by Broadland District Council’s Scrutiny Committee before their Cabinet made the final decision. Officers advised that public speaking would be permitted at both of these Committees, so parish councillors and members of the public were welcome to attend.

Mr Milliken advised the Committee that Easton Parish Council had passed a motion on 8 May 2017 to request that the Secretary of State be asked for an EIA screening direction. He confirmed that a formal request would be forwarded to South Norfolk Council and urged that members supported this request.
The Chairman thanked members of the public and Broadland District Council's officers for attending before requesting that members consider the comments from Cabinet to determine whether they were satisfied that the points raised had been satisfactorily addressed. After a short discussion, it was:

**RESOLVED:**

that Broadland District Council had satisfactorily assessed and addressed all the points raised by Cabinet on 6 February 2017 and that no further recommendations were required.

**1198 SCRUTINY COMMITTEE WORK PROGRAMME AND TRACKER, AND CABINET CORE AGENDA**

The Committee noted the Work Programme, Tracker and Cabinet Core Agenda.

It was noted that, an additional meeting of the Scrutiny Committee had been arranged for 25 May 2017 to consider a review of the Council's Compliance and Enforcement Policy.

Cllr Lewis suggested that a review of the effectiveness of the Council's Customer Services and Call Centre Operation be considered at a future meeting of the Scrutiny Committee. Members were informed that the service was already the subject of an internal review and that the matter would be discussed further, outside of the meeting.

(The meeting concluded at 11:15 am)

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Chairman
Review and evaluation of the effectiveness of the Council’s Compliance and Enforcement Policy with respect to Planning, Appendix 3 of this Policy

Report of the Development Manager
Cabinet Member: Councillor Lee Hornby, Regulation and Public Safety

CONTACT
Helen Mellors
hmellors@s-norfolk.gov.uk
1. Introduction

1.1 Members have requested for Scrutiny Committee to evaluate the effectiveness of the Council’s Compliance and Enforcement Policy in relation to planning, which relates to Appendix 3 of this policy, and to make any recommendations. A copy of this policy, as a whole, is attached as Appendix A.

1.2 This report will cover and evaluate the following areas of the policy:

- When and how enforcement action is taken;
- Development Management Enforcement Priorities;
- Overview on number and type of enforcement cases and action taken;
- Difficulties faced when managing situations.

2. Background

2.1 The Compliance and Enforcement Policy was approved by members at full Council in late 2015 and covers all enforcement areas for the Council. The responsibilities and aim of the overarching policy is to ‘as far as possible, to work positively with businesses, individuals and organisations to seek compliance with the law.’ The policy makes it clear that the Council when ‘Responding to problems and non-compliance’ that ‘as far as possible we will seek and work with you to achieve positive compliance with the law. Where we identify failure to meet legal obligations, we will respond proportionately, taking into account of the circumstances in line with our Enforcement Policy (see Appendices 1, 2 and 3).’

2.2 Development Management and planning enforcement is specifically referred to under Appendix 3 of the policy.
2.3 Planning enforcement is a discretionary power and the policy states the any action will be proportionate to the matter considered. The policy, which members recently agreed, states that 'We will have regard to the expediency of taking enforcement action in each case, and exercise discretion accordingly. This means that the Council and its officers may resolve matters formally, informally or decide not to take any action, if a breach of planning control exists'. This approach is consistent with paragraph 207 on Enforcement in the National Planning Policy Framework (NNPF), which states:

‘Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way this 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 it is appropriate to do so.’

2.4 The Planning Practice Guidance (PPG) is produced by the Government to support the Planning System. The PPG states ‘There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way. Local planning authorities (lpa’s) have discretion to take enforcement actions, when they regard it is expedient to do so having regard to the development plan and any other material considerations.’ It also states that lpa’s should have regard to paragraph 207 of the NPPF.

2.5 It is within this framework and that officers work when looking to resolve breaches in planning.
3. Current Position on Planning enforcement, as per Appendix 3

When and how enforcement action is taken

3.1 The Council’s policy states we will investigate the following matters (but it should be noted this is not limited to this list):

- Unauthorised building and engineering operations;
- Unauthorised use of land and buildings;
- Breaches of planning control, planning conditions and obligations;
- Unauthorised works to Listed Buildings and protected trees or hedges;
- Unauthorised advertisements;
- Allegations of untidy land;
- Compliance with planning conditions by selective monitoring;
- Inconsistencies between Building Control commencements and planning approvals.

3.2 Our approach, as per the policy, is to seek early engagement and attempt to resolve matters informally in the first instance. We actively want to work with developers as early as possible in the planning stage to support them in securing compliance. As per the policy, formal action will only be taken where there is demonstrable harm being caused to matters of public interest. This can include the service of notices, direct action, prosecution and/or the use of injunctions.

3.3 When a breach is first reported, the following actions will normally be taken:

- Acknowledge complaint within 5 days.
- Investigation:
  - Desk Top assessment
  - Site visit(s)
  - Interview relevant individuals.
• If breach is confirmed, letter sent to developer advising of action required to remedy the breach.
• Complainant advised of our findings and intended action within 25 days of complaint where possible.

3.4 All major sites are monitored to ensure conditions are being complied with. To help with this process, the Council’s compliance officer carries out the following checks with CNC:

• Weekly reports generated to check all sites where has commenced in last two weeks
• Check all conditions for any commencements had been submitted and agreed, and if not, passed to the relevant planning officer to check.
• If not complied with all conditions notified in writing to discharge conditions
• S106 and CIL compliance are also checked at this time

Development Management Enforcement priorities

3.5 As per the policy our priorities are as follows:

• Unauthorised development causing or threatening significant harm to public health and safety.
• Cases where there is ongoing or immediate threat of irreversible harm to amenity or the environment.
• Harm to areas protected by statutory designations such as Sites of Special Scientific Interest (SSSI’s); Conservation Areas; Archaeological sites.
• Harm to listed buildings and their setting.
• Harm to trees and hedges, especially where protected by Preservation Orders or Regulations.
• Unauthorised development likely to harm protected species or habitats.
• Monitoring of major developments.
3.6 It should be noted however that all breaches reported are recorded and investigated, but priority is given to the type of cases listed in paragraph 3.5. As per the policy formal action will not be taken against minor, infrequent, or trivial breaches of planning control where there is no significant harm caused or no aggravating factors. It must also be remembered that Planning legislation allows development to be regularised by application for retrospective planning permission and this course of action is encouraged, where appropriate, for many of the cases that are investigated. Enforcement actions should not be taken solely to punish a developer for breaching planning control and the development must still be assessed on its merits in the normal way.

3.7 Where an owner refuses to submit a retrospective application, a report is then prepared by officers and taken to the Development Management Committee (DMC) for members to then agree an appropriate course of action. Where officers are recommending no further action, full consultation is carried out with the relevant local member, neighbours and parish/town council as by taking no further action, you are indirectly giving planning permission.

3.8 For the past year 2016/17 11 cases have been taken to the DMC where 5 have required officers to take appropriate enforcement action and 6 cases have required no further action. In all cases members agreed with the officer recommendation.

3.9 It should also be noted that on a quarterly basis a report is taken to the DMC to update Members on progress on ongoing and outstanding Enforcement Proceedings. Questions are often asked by members on progress and reasons explained if there any delays. It should be noted that there is one case dating back to 2007 (Dickleburgh) which has resulted in long delays and where the only next action would be for the Council to take on the risks of this listed building and consider compulsory purchase, but the costs of doing so would be excessive and a solution is still being sought with the owner of the site.

3.10 Resolution of other long running cases can be delayed by the absence of alternative caravan sites and changes in legislation (e.g. Wortwell and Gt Moulton). Some are also delayed by lengthy appeal and legal challenges (e.g. Carleton Rode).
Overview on number and type of enforcement cases and action taken

3.11 In the last 2 years we have investigated 652 potential breaches and 598 have been fully resolved. The most common breaches are:

- Breach of conditions, ranging from – operations not in accordance with construction traffic management plan; wheel cleaning; departures from approved plans; obscure glazing not installed
- Commencement without discharge of all pre-commencement conditions
- Householder extensions, fences, accesses etc.
- Use of land and associated structures being brought onto the land
- Advertisements in the countryside

3.12 Of those breaches investigated over the last 2 years, 190 have resulted in retrospective applications being submitted and resulted in a fee income of approximately £38,000.

3.13 579 cases have been resolved without need for any further action.

3.14 19 cases have resulted in the serving of formal action by way of an Enforcement Notice.

3.15 There are a number of ways that breaches of planning control can be tackled, as follows:

Voluntary compliance or retrospective permission obtained.

3.16 This is by far the most common method and the Enforcement Officers spend considerable time negotiating such resolutions which as per the policy are obviously preferable to formal action.
Enforcement Notice

3.17 There are four types of notice which could be issued and they are:

- Enforcement Notice - Material Change of Use
- Enforcement Notice - Operational Development
- Enforcement Notice - Breach of Condition
- Breach of Condition Notice

3.18 The first three can all be appealed to the Planning Inspectorate, but it is not normal practice to issue the last one on the above list as this one can only be appealed to a Magistrates Court and the penalty for non-compliance is very minimal.

3.19 Enforcement notices are not a prompt remedy for breaches of planning control, there are rights of appeal which if exercised can suspend the enforcement notices for some considerable time.

3.20 Over the past 2 years we have served 19 of these notices.

Stop Notice

3.21 These prevent certain works from being carried out in the interim before the enforcement notice kicks in but this has to be served alongside an enforcement notice. If an enforcement notice is successfully appealed and a stop notice was served a developer, who is able to show they have suffered loss or damage directly attributable to the prohibition in the stop notice, may in certain circumstances be liable to claim compensation from the local planning authority (lpa).

3.22 It is often perceived by members of the public that we should be issuing this type of notice as soon as a breach occurs, however, the PPG make it clear that this power to serve is discretionary. Before serving such a notice a lpa must be satisfied that is expedient that any relevant activity should cease before the expiry period for compliance specified in an enforcement notice. The lpa should ensure that an assessment of likely consequences of serving the notice is available to the decision maker. The assessment should examine among other things the foreseeable cost and benefits likely to result from the stop notice.
3.23 Of particular importance, the LPA should ensure that a stop notice’s requirements prohibit only what is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.

3.24 Over the past 2 years we have not served any of these notices.

**Temporary Stop Notice**

3.25 These prevent certain works from being carried out for a maximum of 28 days, only one can be served but this can be effective immediately should we consider the breach so harmful that it is necessary. Before the expiry of the 28 days we should then serve an enforcement notice and stop notice should we consider it proportionate and expedient to do so. Again, a developer may be entitled to compensation from the LPA for loss or damage should an appeal be successful or if the LPA do not issue an enforcement notice and stop notice or the temporary stop notice is withdrawn.

3.26 Over the past 2 years we have not served any of these notices.

**Injunction**

3.27 The Injunction from the Courts to seek to restrain further contravention of the enforcement notice should a developer not comply with its terms. Injunctions are also used when a breach in a S106 occurs.

3.28 Over the last 2 years we have not served any Injunctions. It should however be noted that these are only served in extreme circumstances.

**Section 215 Notices**

3.29 Not strictly Enforcement action but can be served to require specific works to improve the appearance of land which is judged to harm the amenity of the area.
3.30 As already mentioned the DMC is notified of progress on a quarterly basis on all formal notices. Officers do not have delegated powers to serve any formal notices, without first agreeing this action with the committee or with the Chairman in urgent cases.

3.31 Where a formal notice has not been complied with legal proceedings to prosecute may follow, as appropriate, and this is currently being carried out for a case in Ketteringham.

3.32 A current case in Poringland has been subject to monitoring and officers have been criticised for not taking any formal action, however in this case the breaches in discharging the conditions did not meet the tests above and the developers, rather belatedly, were submitting the relevant details. Learning has been taken from this case and better communication between all parties will take place moving forward. The developers also need to take more accountability.

3.33 It is evident that some developers are better at discharging pre-commencement conditions. Members will be aware the Government is promoting that lpa use fewer pre-commencement conditions, as the imposition of pre-commencement conditions is perceived to slow up the delivery of housing on the ground.

3.34 However, there are still a number of sites that have commenced without all the conditions being formally discharged, but in all cases officers are ensuring the development is built out as per the approved plans and actively pursuing the discharge of these conditions.

**Difficulties faced when managing situations**

3.35 The policy gives much weight to resolving issues and this approach is adopted by your officers but this does lead to delays in reaching a conclusion in some cases. Only rarely will an enforcement case result in direct action as in most cases the breach will not be one that needs to have direct action to be taken to prohibit only what is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area. Because of this high bar, it can be perceived by members of the public that we do not take any appropriate action and we are letting developers ‘get away with
it'. It is quite the reverse in that officers are seeking to ensure development is carried out in accordance with the approved plans or details, which often requires more information to be submitted. Reasonable time should be given for information to be submitted and officers are chasing these requests on a regular basis. If a case has to proceed to prosecution, then the magistrate is more likely to impose a meaningful penalty if it can be shown that the developer has been given every reasonable opportunity to resolve the breach.

3.36 It is more clear cut to take action where permission has not been given and a temporary stop notice may be appropriate in this instance. In all cases developers are reminded that without permission they are taking a big risk if permission is then not granted.

3.37 With respect to the case mentioned above at Poringland, the scheme already had consent and it was the final discharge of conditions that needed to be finalised and in this case the drainage strategy had been agreed with the statutory bodies. Although extremely frustrating to the wider community who knew there was a breach, direct action was not deemed appropriate. The key for officers in this situation is to ensure the resulting development is carried out as approved.

3.38 Officers are sometimes notified of work that ‘may happen’ and again are criticised when we say action cannot be taken unless there is clear evidence of a breach. Again, we need to react proportionately and often the first course of action is to invite a retrospective application, which is then considered on its own planning merits.

4. Evaluation and proposals

4.1 Based on the current position above, I am satisfied that officers are adhering to the above policy. There will inevitably be areas where improvements and learning can be taken from how individual cases have been dealt with. It is important that members and the public have confidence that the LPA is investigating and taking appropriate action. Often this is at officer level and a lot of work is taking place to resolve the issues, but this is not always communicated to the local member, unless they have reported the breach themselves. For this reason, it is proposed that on all major sites where there may be breaches and on certain contentious sites, that the local member for the area is automatically notified of the breach. Members will then be regularly updated on the matter and will be able to discuss the issues direct with the officer. This will help facilitate a better dialogue between the local member and local community where assurances can hopefully be given that the matter is being given due consideration.
4.2 It is also recommended that a training session is provided for all members later in the year to explain in more detail how the enforcement process works. I am proposing that this session is provided by Nplaw. The fact that a stop notice should only be served if it is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area, is not widely known or understood.

5. **Risks and implications arising**

5.1 A budget is already in place for member training which can accommodate the enforcement training recommended above. There will be limited additional resource for officers to keep members informed of progress on certain enforcement cases mentioned above.

5.2 The proposal will not impact on disadvantaged groups.

5.3 The proposal will not impact on the environment, but it should be noted that all planning enforcement decisions do consider environmental impacts in any event.

5.4 The proposal will not impact on crime and disorder.

6 **Recommendation**

6.1 The Scrutiny Committee:
1. Reviews and evaluates the effectiveness of the Council’s Compliance and Enforcement Policy with respect to Planning, Appendix 3 of this Policy;
2. Considers the proposals set out in paragraph 4 of the report; and
3. Makes any further recommendations in respect of the Council’s Compliance and Enforcement Policy with regard to Planning, Appendix 3 of this Policy.
South Norfolk Council
Compliance and Enforcement
Policy
2015

General statement of our approach

The Council’s vision
The Council plays a key role as a provider of services, enabler and by providing leadership within and beyond the South Norfolk community. Our vision in this role is:

‘To retain and improve the quality of life in South Norfolk, for now and future generations, to make it one of the best places to live and work in the country’

As part of this vision our corporate priorities are:

• enhancing the quality of life and the environment we live in
• supporting communities to realise their potential
• promoting a thriving local economy
• driving services through being businesslike, efficient and customer aware

Our responsibilities
We are tasked with applying the law in a variety of ways and circumstances. Our aim is, as far as possible, to work positively with businesses, individuals and organisations to seek compliance with the law. However to be effective as a leader, shaper and protector of the local community, there will be occasions when it is necessary for us to take appropriate action to deal with matters of non-compliance. This expectation has been placed on us by Government along with that to publish a policy about how we approach compliance and enforcement.

Policy purpose
Given what we have said above, we have drawn up this policy to help our customers understand how we will approach situations involving the use of the law, in what circumstances and how we will go about it with the appropriate checks and balances. Our approach is always to try and work with our customers rather than against them but on occasions we will have no alternative but to apply the law to secure outcomes expected by society.

The purpose of this Compliance and Enforcement Policy is to describe principles, priorities and the options available to the Council to secure compliance, whilst minimising the burden on individuals and businesses.

We believe in firm but fair action to secure compliance with the law. In terms of the law that we have to apply, we are committed to the principles of ‘better regulation’ as prescribed by
Government and aim to achieve this by actions that are: proportionate, accountable, consistent, transparent and targeted.

In terms of statutory powers and duties we will seek to protect residents, visitors, workers, consumers, businesses, the Council’s financial position and the environment of the area.

We will co-ordinate compliance and enforcement actions internally and will endeavour, where appropriate, to co-ordinate with other enforcement agencies and partner organisations. We have in place procedures for complaints and appeals to fulfil the Council’s equalities objectives, human rights legislation and to meet other statutory requirements as necessary.

**Working with you, working for you**

We recognise that it is important that our customers understand how we will work with them and apply the law given our powers, duties and this policy.

We endeavour to carry out all our activities in a way that supports our customers to comply and benefit by:

- Ensuring that information, guidance and advice is available to help you meet legal expectations
- Carrying out our activities to check compliance in a targeted and fair way
- Dealing proportionately with breaches of the law as set out in this policy including taking action when necessary – in accordance with, as appropriate, the Regulators code.

Our staff will:

- Be courteous and polite
- Always identify themselves by name and provide you with contact details
- Seek to gain an understanding of your needs
- Agree timescales, expectations and preferred methods of communication with you
- Ensure you are kept informed of progress on any outstanding issues
- Do our best to coordinate with others both within and outside the Council by providing information, guidance and advice

**Helping you to get it right**

We want to work with you to help you to meet your needs and it is important to us that you feel able to come to us for advice when you need it. We won’t take action just because you tell us that you have a problem.

Where you need advice that is tailored to your needs and particular circumstances we will:

- Discuss with you what is required to help you meet your legal obligations
- Provide clear easily understood advice that supports compliance and that can be relied on
- Distinguish what is required by the law and what is suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing if requested
- Acknowledge good practice and compliance
- Publish on our website any fees and charges and explain them. For more information go to [www.south-norfolk.gov.uk](http://www.south-norfolk.gov.uk)
Our visits and checks
We monitor and support compliance in a number of different ways including through inspections, sampling visits, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won’t visit without a reason. We will give you notice that we intend to visit unless we have specific reason to believe that an unannounced visit is more appropriate.

When we visit you our officers will:

• Explain the reason and purpose of the visit
• Carry their identification card at all times, and present it on request when visiting your premises
• Exercise discretion in front of your customers and staff
• Have regard to your approach to compliance, and use this information to inform future interactions with you
• Provide information, guidance and advice to support you in meeting your statutory obligations, if required
• Provide a written record of the visit if so requested or where it is deemed appropriate to do so.

Responding to problems and non-compliance
As far as possible we will seek and work with you to achieve positive compliance with the law. Where we identify failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy (see Appendices 1, 2 and 3). We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary.

Where we require you to take action to remedy any failings we will:

• Explain the nature of the non-compliance
• Discuss what is required to achieve compliance, taking into account your circumstances
• Clearly explain any advice, actions required or decisions that we have taken
• Provide in writing a timely explanation of how to appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
• Explain what will happen next
• Keep in touch with you as and when necessary, until the matter has been resolved with the least practicable delay

Requests for our services
We clearly explain the services that we offer, including details of any fees and charges that apply. For more information go to www.south-norfolk.gov.uk.

In responding to written requests for our services, including requests for advice and complaints about breaches of the law, we will:

• Acknowledge your request within 10 working days.
• If a full response cannot be provided within this time scale, an acknowledgement will be sent to inform you when you can expect a substantive response
• Seek to fully understand the nature of your request
• Explain what we may or may not be able to do, so that you know what to expect
• Keep you informed of progress throughout our involvement
• Inform you of the outcome as appropriate
You can contact us by emailing reception@s-norfolk.gov.uk

**Developing our services with you**

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats, and have access to translation and interpretation services.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will respond to anonymous complaints and enquiries where we judge it appropriate to do so.

Personal data will be managed in accordance with the Council’s Data Protection Policy. For more information go to www.south-norfolk.gov.uk

**Our Team**

We have a dedicated team of officers who have the appropriate qualifications, skills and experience to deliver the services provided. We have arrangements in place to ensure the ongoing professional competency of all officers.

**Working with others**

We work closely across the Council and our aim is to provide a streamlined service to you.

We are part of a much wider regulatory system and this enables us to deliver a more joined up and consistent service. This includes sharing information and data on compliance and risk where the law allows, to help target regulatory resources.

Our officers are familiar with the work of our partners and can signpost you to the advice and guidance you need.

**Having your say - Complaints and appeals**

Where we take legal action or enforcement action, there is often a statutory right to appeal and/or have your say. We will always tell you about this at the appropriate time. We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. Should complaints arise about our service, or about the conduct of our officers, we have an established Corporate Complaints Policy.

Details of the procedure can be can be found at www.south-norfolk.gov.uk Alternatively telephone 01508 533633 or Email feedback@s-norfolk.gov.uk We are always keen to discuss any concerns at any point irrespective of the fact we have a policy.

**Having your say - Feedback**

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or suggestions for improvement. This helps us to ensure we keep doing the right things and make changes where we need to.
You can provide feedback in the following ways:

Telephone: 01508 533633  
Email: feedback@s-norfolk.gov.uk  
Web: www.south-norfolk.gov.uk  
By post: South Norfolk Council, South Norfolk House, Swan Lane, Long Stratton, Norfolk NR15 2XE  
Or in person: at South Norfolk House Monday to Friday between 08:15 and 17:00 hours  
Any feedback that we receive will be acknowledged.

In terms of our approach to compliance and enforcement much is prescribed in legislation, guidance and codes of practice. This is set out in the following appendices:

**Appendix 1** – our overarching approach to compliance and enforcement – this section deals with the principles of how we encourage compliance with the law, the sanctions and options available to us when we have no choice but to take action.

**Appendix 2** – this section details our approach to dealing with compliance and enforcement in relation to regulatory activities which include food and health and safety, licensing, waste enforcement, environmental protection and private sector housing.

**Appendix 3** – this section deals with the specific approach to compliance in relation to development management.

This policy supersedes all earlier enforcement policies from 14 September 2015.
Appendix 1 – Our overarching approach to compliance and enforcement

1. Our commitment

1.1 South Norfolk Council is committed to avoiding, where possible, unnecessary legal and regulatory burdens, and to assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means. The Council therefore fully supports the approach to good enforcement practice advocated in the Department for Business Innovation and Skills Regulators’ Code April 2014 and the Local Government Association publication “Open for business” November 2013.

2. Our commitment to the Principles of Good compliance and regulatory practice

2.1. The Council is committed to avoiding imposing unnecessary regulatory burdens, and to be assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Underlying the policy are the principles of good regulation set out in the Legislative and Regulatory Reform Act 2006, etc.

2.2. We will exercise our activities in a way that, as far as possible, we work with you and ensure we are:

- **Proportionate** – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
- **Accountable** – our activities will be open to scrutiny, with clear and accessible polices and complaints procedure. To achieve this:
  - Policies are published on the Council’s web site
  - Complaints about our service or action can be made in person, writing, electronically at any time by accessing the Councils web site: - [www.south-norfolk.gov.uk](http://www.south-norfolk.gov.uk) or by telephone on 01508 533633.
- **Consistent** - enforcement will be done in a consistent and fair way. Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar we will endeavour to act in similar ways to other local authorities.
- **Transparent** –we will ensure that those we regulate are able to understand what is expected of them and what they can expect from us in return.
- **Targeted** – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

3. Our approach

3.1. The type of action taken by the Council to deal with non-compliance will depend on the nature of the case and the legislation that is appropriate to it. However, the guiding principles of this Policy apply to all Directorates and authorised officers.

3.2. Our Policy commits us to:

- Protecting residents, visitors, workers, consumers, businesses, the Council’s financial position and the environment of the area
- Equitable and consistent enforcement actions
- Fostering an environment which encourages economic growth
• Helping businesses and others to understand and meet their legal obligations by reassuring them that they can approach the Council for the guidance they need
• Reducing unnecessary burdens on businesses and individuals
• Responding proportionately to the seriousness of regulatory breaches
• Taking firm action, including legal action where appropriate, against those who fail to pay local taxes and charges, persistently flout the law or act negligently or irresponsibly

3.3. The Council recognises that most people and businesses want to comply with the law and it is our commitment that we shall help and encourage them to do this, but when it is necessary to consider taking action to secure compliance, appropriate regard will be given to:

• The seriousness of the matter;
• The vulnerability of the individuals concerned;
• Compliance history which may include records, relevant data, earned recognition and evidence of relevant external verification;
• Confidence in achieving compliance;
• Consequences of non-compliance;
• Likely effectiveness of the various enforcement options;
• The urgency with which corrective action is necessary;
• Whether there is a deliberate or flagrant breach of the law;
• Non-payment of local taxes and charges.
• All relevant national guidance.

3.4. The criteria are not exclusive and those which apply will depend on the particular circumstances of each case. This does not mean that all factors must support enforcement action before it can proceed.

3.5. By delivering these commitments, we believe we shall help to maintain a fair and safe living and trading environment to promote the local economy and social cohesion.

4. Legal proceedings

4.1. The Practice Director, nplaw, is authorised to institute, defend or participate in any legal proceedings where instructed by the Council in any case where such action is necessary to give effect to decisions of the Council or in any case where the Practice Director considers that such action is necessary to protect the Council’s interests.

4.2. There are certain specific exceptions to this principle. For instance, officers authorised under the Health and Safety at Work etc. Act 1974 have the authority to take a decision to commence legal proceedings for offences committed under that Act or under any subordinate legislation. However they must:

• Apply the principles of the Health and Safety Executive (HSE) Enforcement Management Model to guide their decision on prosecution.
• Seek the approval of the Director regarding any expenditure involved.

5. Considering the views of those affected by “offences”

5.1. Officers undertake enforcement on behalf of the public at large and not just in the interests of a particular individual or group. The consequences for those affected by the offence are taken into consideration as part of the public interest test when
deciding whether or not the Council should take enforcement action. Those people directly affected by the offence will be informed about any enforcement decision that concerns them.

6. Complaints and Appeals

6.1. Enforcement action can sometimes raise complaints, objections and appeals. If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant officer. This is without prejudice to any formal appeals mechanism or to the Council’s complaints procedure. Complaints can be made by telephone, in person, writing or electronically at any time by accessing the Council’s web site: - www.south-norfolk.gov.uk

6.2. Most formal statutory enforcement actions including planning and licensing, have legal rights of appeal to an inspector, a court or tribunal etc. An explanation of the rights of appeal will be given in writing when any formal action is taken.

7. Delegation of Authority

7.1. The Council’s scheme of delegation specifies the levels of authority given to officers.

7.2. Enforcement officers will be formally authorised by the Council or by the Service Director to exercise specified powers under relevant statutes. The level of authorisation for each officer will be determined by their qualifications, experience and competence having regard to any relevant national guidelines. Authorisation will be in writing and in a form which can be shown on request.

8. Legislation, guidance and codes that influenced the preparation of this Policy

8.1. Regulators Code
South Norfolk Council has had regard to the Regulators Code in the preparation of this policy. In certain circumstances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

South Norfolk Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Public Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Act. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

8.3. Data Protection Act 1998
Where there is a need to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

8.4. The Code for Crown Prosecutors
When deciding whether to prosecute, the Council has regard to the provisions of the Code for Crown Prosecutors as issued by the Director of Public Prosecutions
8.5. Regulatory Enforcement and Sanctions Act 2008

The Regulatory Enforcement and Sanctions Act 2008 as amended established the Primary Authority Scheme. We will comply with the requirements of the Act when considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

9. Explanation of compliance and enforcement powers available to the Council

9.1. No action

In some situations it will be inappropriate to take formal action. For example:

- Where the cost of securing compliance or the cost of enforcement action is disproportionate to the impact of the contravention.
- Where the offender is in some way highly vulnerable and/or suffering from serious ill health.

9.2. Compliance advice, Guidance and Support

Where it is appropriate, the Council uses advice, guidance and support as a first response to dealing with matters of non-compliance. In responding to non-compliance that we have identified, we shall clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these.

9.3. Written Warning

Advice is sometimes provided in the form of a warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible without the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. Written warnings are used in the circumstances where there is evidence of a contravention or offence, but in the particular circumstances of the infringement and having regard to the Policy; a written warning is in the officer’s opinion a proportionate response.

9.4. Voluntary Undertakings

The Council may accept voluntary undertakings that breaches will be rectified or recurrences prevented but will take any failure to honour a voluntary undertaking very seriously and enforcement action is likely to result.

9.5. Statutory (Legal) Notices

In respect of many breaches the Council has powers to issue statutory notices. Some such notices include: ‘Stop Notices’, ‘Prohibition Notices’, ‘Emergency Prohibition Notices’, and ‘Improvement Notices’. Such notices are legally binding. Failure to comply with an extant statutory notice can be a criminal offence and may lead to prosecution and/or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.
Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

9.6. Financial penalties

For some offences, the Council has powers to issue a Fixed Penalty Notice (FPN). A FPN is not a criminal fine and does not appear on an individual’s criminal record. If a FPN is paid then no further enforcement action will be taken, but if it is not paid, the Council may commence legal proceedings or take other enforcement action.

In circumstances where consideration is being given to the issue a FPN to a person of age 17 years or less, officers will be guided by DEFRA guidance, as detailed in “Issuing Fixed Penalty Notices to Juveniles” and to any subsequent guidance from a government department.

9.7. Penalty Charge Notices

Most parking offences in the UK are now enforced as a civil matter by the use of Penalty Charge Notices (PCNs). A PCN is a penalty for a contravention of a parking restriction, but it doesn’t result in a criminal record nor does it place points on a driving licence. If unpaid, a PCN will be treated as a civil debt.

9.8. Injunctive Actions, Enforcement Orders etc.

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

The Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

9.9. Simple Caution

The Council has the power to issue simple cautions as an alternative to prosecution for some less serious offences where a person admits to the offence and consents to the simple caution. Where a simple caution is offered and declined, the Council is likely to consider prosecution.

A simple caution will appear on the criminal record of a person and it is likely to influence how the Council and others deal with any similar breach in the future. It may also be cited in court if the person is subsequently prosecuted for a similar offence. Simple cautions will be used in accordance with Ministry of Justice guidance: Simple Cautions for Adult Offenders April 2015 and other relevant guidance.

9.10. Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute due regard will be given to the provisions of The Code for Crown Prosecutors as issued by the
Director of Public Prosecutions. The Code sets out two tests that must be satisfied:

- The evidential test.
  When deciding whether there is enough evidence to prosecute, the Council will consider what evidence can be used in court, if it reliable and enough to be satisfied that there is a realistic prospect of conviction.

- The public interest test
  When deciding if it is in the public interest for a case to be brought to court, the Council will balance the factors for and against prosecution carefully and fairly, considering each case on its merits and will have regard to, amongst other matters, the following criteria:
  - Was there a deliberate, reckless, negligent or persistent breach of legal; obligations which were likely to cause material loss or harm to others?
  - Were written warnings or formal notices deliberately or persistently ignored?
  - Was the health and safety or wellbeing of people, animals or the environment put at risk or endangered?
  - Was an attempt made to make financial gain at the expense of others?

If there are significant financial or policy implications regarding prosecution, the Director will consult the Chief Executive and the relevant portfolio holder.

In each prosecution case the Council will normally apply for an order that the Defendant pays the Council’s costs (or a contribution towards them) in respect of the investigation of the case and the costs in bringing the case to court.

9.11. Refusal/Suspension/Revocation of Licences

The Council issues a number of licences and has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, the Council may take previous breaches and enforcement action into account.

9.12. Forfeiture Proceedings

These proceedings may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the marketplace or being used to commit further offences. Application for the forfeiture will be made to a criminal court.

9.13. Seizure of Goods or Equipment

Where it is permitted by legislation an appropriately authorised officer may exercise powers of detention and/or seizure certain goods of equipment, for example sound equipment which has caused a noise nuisance. Seizure powers must be used strictly in accordance with the prescribed procedures detailed in legislation and statutory guidance.
9.14. Works in Default
Under certain statutory notices the Council may carry out specified works itself and recover the cost from an offender if an offender fails to comply with a statutory notice within the specified time scale.

9.15. Proceeds of Crime Applications
In appropriate cases an application under the Proceeds of Crime Act 2002 may be made to the Court to restrain and/or confiscate the assets of an offender.

9.16. Injunctions and other Civil Actions
Where offenders are repeatedly convicted of similar offences or where prosecution is not an adequate remedy the Council may consider making an application to the courts for an injunction to prevent further offences being committed.
Appendix 2 – Regulatory Services

This section details our approach to dealing with compliance and enforcement in relation to regulatory activities which include food and health and safety, licensing, waste enforcement, environmental protection and private sector housing. It should be read as part of the overall compliance and enforcement policy and all parts are complementary.

1. Introduction

This document explains what you can expect of Regulatory Services in South Norfolk. Whether you are run a business, are an employee or a member of the public, we are committed to providing you with an efficient, courteous and helpful service and this section tells you how we aim to do that. We are committed to good enforcement practice.

2. How we deliver our services

We make a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our aims are to:

- Protect the public, businesses and the environment from harm
- Support the local economy to grow and prosper

We determine our activities by assessing the needs of local people and our business community, and considering the risks that require addressing. In this way we ensure our resources are targeted appropriately, in the light of these local needs and of national priorities.

We are committed to being transparent in our activities and to carrying them out in a way that supports those we regulate to comply and grow:

Details of our current business plan is available at - www.south-norfolk.gov.uk

3. What is this policy for?

The Council has wide ranging duties and powers to make plans, take decisions, set standards, regulate activities and collect revenues and charges. Whilst most of these activities are conducted without the need for enforcement action there will be occasions when the Council will have to take action for non-compliance with a legal requirement. This Policy explains the Council’s approach to dealing with non–compliance to:

- those affected by the Council’s enforcement activities; and
- Authorised officers of the Council

4. Areas we regulate

We deliver services in a number of areas:

This aspect of the policy relates to the following areas of enforcement responsibility

<table>
<thead>
<tr>
<th>Environmental Protection and ASB</th>
<th>Public Health</th>
<th>Food Safety</th>
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<tbody>
<tr>
<td>Health and Safety</td>
<td>Licensing</td>
<td>Private Sector Housing and Building Control</td>
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5. Explanation of our approach to dealing with non-compliance – our commitment

We will:

- Consider breaches of the law on the merits of each situation and will apply good regulatory practice given this policy overall.
- Clearly explain the non-compliance and any advice being given, actions required or decisions taken, with reasons for these.
- Provide an opportunity for dialogue in relation to advice given, actions required or decisions taken in relation to non-compliance.
- Communicate openly, honestly and transparently with your business or as a ‘regulated’ person or organisation.
- Where appropriate we will work closely with other agencies to secure the best outcome in terms of regulatory fairness.
- Manage enforcement in relation to our own establishments and activities, to ensure that decisions are free from any conflict of interest.
- Be fair and objective in any enforcement activities (link to corporate equality and diversity policy)
- Ensure that any publicity or public statements are fair and objective and consider their impact and the public interest.

6. Explanation of our approach to taking action depending on the particular circumstances and the approach of the business, or regulated person to dealing with the breach.

We will:

- Deal firmly with those that deliberately or persistently fail to comply.
- Provide advice as requested on non-compliance without directly triggering enforcement action, where there is a willingness to resolve the non-compliance.

7. The factors that influence our response to breaches of the rules:

We will:

- Ensure there is a proportionate approach based on relevant factors such as business size and capacity
- Liaise and ensure we meet the requirements of the Primary Authority scheme in responses to breaches.
- Check that matters of non-compliances which were dealt with by providing advice or guidance have been rectified in a proportionate and pragmatic way.
- Consider the appropriate enforcement route with other agencies where circumstances are such that breaches may be referred to them.

8. Our approach to complaints of non-compliance

We will determine whether individual complaints require investigation based on the evidence and taking into account the public interest.
9. Conduct of investigations

Investigations will be carried out with regard to relevant legislation some of which are listed below and in accordance with any associated guidance or codes of practice, in so far as they relate to the Council:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice. Officers will conduct investigations in accordance with good regulatory practice.

We are committed to keeping alleged offenders and those affected by potential breached of the law informed of the progress of investigations.

10. Decisions on enforcement action

Decision to take enforcement action will be guided by the recommended principles set out in the Macrory Review report Regulatory Justice: Making Sanctions Effective 2006. Such action will:

- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit from non-compliance;
- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- Be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by regulatory non-compliance, where appropriate; and;
- Aim to deter future non-compliance

We will consider risk at the decision making stage when we look at the circumstances of the situation.

In relation to health and safety compliance we will use the HSE’s Enforcement Management Model.

We will consult with other organisations, where appropriate before taking action, and in particular given the statutory requirement under Primary Authority to notify proposed enforcement action.

We will monitor and review decisions taken on enforcement action as part of the review of this policy.

11. How decisions are communicated to those affected

We will provide a timely explanation as a matter of course in writing of any rights to representation or rights to appeal, and practical information on the process involved to all parties subject to enforcement action.
Appendix 3 – Development Management

Development Management Enforcement within South Norfolk Council is undertaken in accordance with this Policy.

Enforcement action is a discretionary power and will be proportionate to the matter considered. We will have regard to the expediency of taking enforcement action in each case, and exercise discretion accordingly. This means that the Council and its officers may resolve matters formally, informally, or decide not to take action even if a breach of planning control exists.

We will investigate matters which include but are not limited to the following:

- Unauthorised building and engineering operations;
- Unauthorised use of land and buildings;
- Breaches of planning control, planning conditions and obligations;
- Unauthorised works to Listed Buildings and protected trees or hedges;
- Unauthorised advertisements;
- Allegations of untidy land;
- Compliance with planning conditions by selective monitoring;
- Inconsistencies between Building Control commencements and planning approvals.

We do not generally investigate:

- Anonymous complaints unless deemed appropriate;
- Neighbour disputes not involving unauthorised development;
- Boundary disputes and encroachment;
- Land ownership disputes;
- Enforcement of deeds or covenants;
- Breaches of leases/tenancies;
- Public Highway offences;
- Complaints about High Hedges (refer to Norfolk County Council).

Development Management Enforcement Priorities

- Unauthorised development causing or threatening significant harm to public health and safety.
- Cases where there is ongoing or immediate threat of irreversible harm to amenity or the environment.
- Harm to areas protected by statutory designations such as SSSIs; Conservation Areas; Archaeological sites.
- Harm to listed buildings and their setting.
- Harm to trees and hedges, especially where protected by Preservation Orders or Regulations.
- Unauthorised development likely to harm protected species or habitats.
- Monitoring of major developments.

Our approach

In the first instance we always seek to work with those seeking planning approval by early engagement and the support of compliance.

We attempt to resolve matters informally in the first instance and want to work with developers as early as possible in the planning stage to support them in securing compliance. Formal action will only be taken where there is demonstrable harm being caused to matters of public interest. This can include the service of notices, direct action, prosecution and/or the use of injunctions.
Formal action will not be taken against minor, infrequent, or trivial breaches of planning control where there is no significant harm caused and no aggravating factors. Planning legislation allows development to be regularised by application for retrospective planning permission and this is a course of action that will be encouraged where appropriate.

Work will be organized with those cases identified as Enforcement Priorities in this policy statement looked at first.

We will subsequently advise the complainant if the investigation results in receipt of a planning application, service of a notice or closure of the case.

Complainants or developers who are dissatisfied with the enforcement service provided by the Council will be directed to the Council’s complaints procedure unless their concern is more appropriately dealt with under the statutory right of appeal available to those in receipt of formal notices.
Scrubtiny Committee – Work Programme

In setting future Scrutiny TOPICS, the Committee is asked to consider the following: T imely – O bjective – P erformance – I nterest – C orporate Priority

T Is this the right time to review this issue and is there sufficient Officer time and resource to conduct the review? What is the timescale?

O What is the reason for review; do officers have a clear objective?

P Can performance in this area be improved by input from Scrutiny?

I Is there sufficient interest (particularly from the public)? The concerns of local people should influence the issues chosen for scrutiny.

C Will the review assist the Council to achieve its Corporate Priorities?

<table>
<thead>
<tr>
<th>Date of meeting</th>
<th>Topic</th>
<th>Organisation / Officer / Responsible member</th>
<th>Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>28 June 2017</td>
<td>Update from the Council's representative on Norfolk Health and Overview Scrutiny Committee (NHOSC)</td>
<td>Cllr N Legg &amp; Cllr Y Bendle</td>
<td>For members to consider an update from the Council’s representative on the NHOSC to assess the impact of issues discussed on South Norfolk residents and the Council. The Committee to consider if any further scrutiny into the issues is required.</td>
</tr>
<tr>
<td>28 June 2017</td>
<td>Waste Collection Round Remodelling – review</td>
<td>Head of Environmental Services &amp; Cllr K Billig</td>
<td>The Committee to review the Council’s waste collection round remodelling introduced in June 2016. Members to assess whether the remodelling has realised the objectives sought and achieved the financial savings anticipated. The committee to also receive data relating to the Council’s contamination statistics and recycling targets in order to assess performance in this area. Members have also requested details relating to marketing campaigns and the impact of these. Members to make any relevant recommendations as required.</td>
</tr>
<tr>
<td>2 Aug 2017</td>
<td>To be held in the event of a call-in only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>27 Sept 2017</td>
<td>No items scheduled</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15 Nov 2017</td>
<td>Update from the Council's representative on Norfolk Health and Overview Scrutiny Committee (NHOSC)</td>
<td>Cllr N Legg &amp; Cllr Y Bendle</td>
<td>For members to consider an update from the Council’s representative on the NHOSC to assess the impact of issues discussed on South Norfolk residents and the Council. The Committee to consider if any further scrutiny into the issues is required.</td>
</tr>
<tr>
<td>20 Dec 2017</td>
<td>No items scheduled</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feb 2018</td>
<td>2018/19 Budget</td>
<td>Director of Business Development &amp; Cllr M Edney</td>
<td>Scrutiny Committee to consider the Council’s 2018/19 budget and the recommendations of Cabinet. The Committee should formulate a recommendation to Council regarding the budget for consideration at its meeting at the end of February 2018.</td>
</tr>
<tr>
<td>June 2018</td>
<td>Review of the Leisure Centre Refurbishments / Enhancements</td>
<td>Head of Leisure &amp; Cllr C Hudson</td>
<td>For members to receive details of usage, income and membership figures since the refurbishments and improvements of the Council’s Leisure Centres. The Committee to evaluate the impact of the enhancements and whether the outcomes have met targets set and delivered an increase in membership numbers and usage in comparison to previous figures. Members to make recommendations as appropriate. Members to also receive details of Council expenditure in relation to the Leisure Centres.</td>
</tr>
</tbody>
</table>
CABINET CORE AGENDA 2017

<table>
<thead>
<tr>
<th>Decisions: Key, Policy, Operational</th>
<th>Key Decision/Item</th>
<th>Lead Officer</th>
<th>Cabinet Member</th>
<th>Exempt Y/N</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12 June</strong></td>
<td>Performance Risks and Finance Budget Position Q4</td>
<td>E Goddard, A Mewes, M Fernandez -Graham</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td>Deadline for reports to Committee 31 May</td>
<td>Charges to Developers</td>
<td>S Pontin/H Mellors/B Wade</td>
<td>L Hornby / K Mason Billig</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Future Management and Maintenance of Pre-Existing Street Lights and Play Areas</td>
<td>Bob Wade</td>
<td>C Hudson</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Supplementary Planning Document on Open Space</td>
<td>Adam Nicholls</td>
<td>J Fuller</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Treasury Management Annual Report 2016/17</td>
<td>M Fernandez-Graham</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Asset Management Plan</td>
<td>D Lorimer</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Commercialisation Strategy</td>
<td>D Lorimer</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Strategic and Annual Internal Audit Plans</td>
<td>E Hodds</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td>Council 10 July 2017</td>
<td>Performance Risks and Finance Budget Position Q1</td>
<td>E Goddard, A Mewes, M Fernandez – Graham</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Easton Neighbourhood Plan</td>
<td>T Cooke</td>
<td>Y Bendle</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>Housing Renewal Grants and Loans Policy</td>
<td>I Purdom</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td>17 July</td>
<td>Draft Norfolk Strategic Framework</td>
<td>A Nicholls</td>
<td>J Fuller</td>
<td>N</td>
</tr>
<tr>
<td>11 Sept</td>
<td>Draft Norfolk Strategic Framework</td>
<td>A Nicholls</td>
<td>J Fuller</td>
<td>N</td>
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</tbody>
</table>
### Council 18 September 2017

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
<th>Title</th>
<th>Responsible Officers</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>30 Oct</td>
<td>O</td>
<td>Performance Risks and Finance Budget Position Q2</td>
<td>E Goddard, A Mewes, M Fernandez – Graham</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td></td>
<td>O</td>
<td>Treasury Management Half Yearly report</td>
<td>M Fernandez-Graham</td>
<td>M Edney</td>
<td>N</td>
</tr>
<tr>
<td>4 Dec</td>
<td>O</td>
<td>Conservation Area Appraisals Review – Bawburgh, Dickleburgh, Hempnall, Mulbarton, Scole and Tacolneston</td>
<td>C Bennett</td>
<td>L Hornby</td>
<td>N</td>
</tr>
</tbody>
</table>

Key decisions are those which result in income, expenditure or savings with a gross full year effect of £100,000 or 10% of the Council's net portfolio budget whichever is the greater which has not been included in the relevant portfolio budget, or are significant (e.g. in environmental, physical, social or economic) in terms of its effect on the communities living or working in an area comprising two or more electoral divisions in the area of the local authority.