

Enforcement

Introduction

26.1 The effective and proper enforcement of planning control assumes considerable importance in the District owing to its high overall environmental quality, and the Council's declared strategy for caring for and protecting that environment.

26.2 A key aspect of the Plan is to provide clear guidance as to where particular types of development are likely to prove acceptable or conversely where such proposals are unlikely to be granted. The policies and proposals contained within the Plan provide the planning background against which new development proposals will be assessed. The purpose of such planning control is to aim to strike an appropriate balance between the demand for development and the conservation of the environmental quality and character of the District.

Enforcement Action

26.3 Government guidance on the use of Local Authority enforcement powers reaffirms that public acceptance of the development control process is quickly undermined if unauthorised development, which is unacceptable on planning merits, is allowed to proceed without any apparent attempt by the Local Planning Authority to intervene before serious harm to amenity results from it.

26.4 Whilst the majority of people are content to abide by the requirements of planning legislation, concerns have recently increased over breaches of planning law, especially with regards to those individuals who seek to evade the planning system by breaching planning controls. In such situations individuals and amenity organisations look to the Council to take necessary action to swiftly remedy any breach and to uphold its own policies.

26.5 The Council's powers in respect of taking enforcement action are discretionary, and the Plan's aims, objectives and policies will provide the background against which the Council will consider taking formal enforcement action in the event of unauthorised developments taking place within the District.

26.6 Although legislation allows for submission of retrospective applications Government advice also makes it clear that negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds or compel it to stop. The Council supports this view and the wider use of Stop Notices to secure an early cessation of

unauthorised development and the minimising of environmental damage and impact.

26.7 Where unauthorised development is considered to conflict with the aims, policies or objectives of the Plan or is considered to be demonstrably harmful to matters such as rural and residential amenity, the local environment, highway safety issues etc, it is the Council's practice that enforcement action should be taken to remedy the breach of planning control. In all cases enforcement action will be vigorously pursued wherever appropriate.

Planning Conditions

26.8 The Council has the power to impose conditions when granting planning permission and this can enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission.

26.9 The Council has a duty to safeguard amenity by ensuring that all development is carried out or continued within acceptable limits having regard to local circumstances and the relevant planning policies. Planning conditions are thus an important and integral part of the planning process and the Council attaches particular importance to ensuring that such conditions are complied with.

26.10 While most development does proceed in such fashion there is a significant number of cases where, having accepted the benefits of their permission, some individuals appear unwilling or unable to accept the responsibility of the conditions which are part of that permission. Furthermore it is recognised that in some instances there is a clear or persistent breach of such conditions. In these circumstances the Council will pursue appropriate enforcement action including the service of Breach of Condition Notices.

26.11 In certain circumstances where an unauthorised development may be acceptable by the imposition of suitable conditions, the Council may invite the submission of a retrospective planning application for consideration.

26.12 As part of its Development Control function the Council operates a structured and targeted system of monitoring developments to ensure full compliance with conditions. Copies of all decision notices are sent to Parish Councils in view of their, and the public's, concerns to ensure that conditions are complied with and development proceeds in a satisfactory manner.

26.13 The 1991 Planning and Compensation Act strengthens Local Planning Authorities enforcement

powers, in recognition of increased public aspirations and expectations to secure swift and effective compliance with planning regulations and in response to growing concerns that such regulations were being breached too readily.

26.14 The Council welcomes this approach and seeks to remedy the harmful effects of such breaches as quickly as possible. Where Enforcement Notices are in effect and the requirements of those Notices have not been fully met, the Council takes an assertive approach to securing prosecutions in the Courts and, in an increasing number of cases, will undertake direct action/works in default to remedy the situation. This has involved the demolition of unauthorised structures and the removal of plant, fixtures and fittings associated with unauthorised uses from the site. The Council may seek to recover the costs of such operation from the owner and such costs may also become a registrable charge on the land.

26.15 Whilst the Council always undertakes proper discretion and due consideration in respect of all enforcement issues, it is considered that less than full compliance with the requirements of an Enforcement Notice will be unlikely to remedy the undesirable effects of that breach. Such requirements, like planning conditions, have been specifically framed to resolve the matter in question. Whilst the decision whether or not to prosecute or take direct action is also discretionary in many enforcement cases this appears to be necessary and in such circumstances is an approach supported by the Council.

26.16 Although the great majority of people are willing to conform to the requirements of the planning regulations, the Council considers it necessary and appropriate to set out clear advice for dealing with the enforcement of planning control in those instances where breaches of planning control occur. The Council welcomes the Government strengthening of its enforcement powers and renewed guidance on the matter. The Council believes that such an approach gives greater recognition to increased public concern over breaches of planning control and to public expectations of the Council to secure swift and effective compliance with planning regulations and conditions.