

PLANNING ENFORCEMENT POLICY

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1.0 INTRODUCTION

- 1.1 The purpose of this policy statement is to express the commitment and intentions of Huntingdonshire District Council, when acting as the Local Planning Authority, to the principles of consistent and effective enforcement of planning legislation.
- 1.2 This policy sets out the arrangements by which the fundamental principles of proportionality, consistency, transparency, helpfulness, openness and the targeting of resources will be incorporated into these actions.
- 1.3 Huntingdonshire District Council is firmly committed to effective planning enforcement. This means that action taken will be proportionate to the harm arising from the breach of planning control. When considering the action to take, regard will be given in each instance to the prevailing circumstances and the particular impact of the unauthorised development or breach in question.
- 1.4 In July 1997 the Department of the Environment Transport and Regions published a good practice guide entitled "Enforcing Planning Control: Good Practice Guide for Local Planning Authorities". This advised that each Council should produce and publicise a clear statement of its enforcement policy to provide a framework on which to base its decisions. The Council first published a Statement in 2002.

2.0 STATEMENT OF INTENT

- 2.1 With regard to planning enforcement it is the Council's policy to:
 - a) endeavour to be pro-active, effective and responsive in the prevention and control of unauthorised development and compliance with planning and related legislative requirements;
 - b) seek to remedy the undesirable effects of unauthorised development, having due regard to the impacts of the development/activity in terms of planning policy and legislation;
 - c) strike an acceptable balance between protecting the residential amenity of citizens, the operation of businesses, the environment of Huntingdonshire and other interests of acknowledged importance;
 - d) provide an enforcement service that will endeavour to pursue proactive initiatives that will improve the environment, our built heritage, safeguard the amenities of the area and support the policies and objectives of the Development Plan;
 - e) introduce effective monitoring procedures to ensure that developments are carried out in accordance with planning approvals and the conditions attached to such permissions;
 - f) ensure that service delivery is impartial, responsive, helpful and consistent in its approach to alleged and identified breaches and to both those responsible and complainants;
 - g) ensure that the users of the system and District Councillors and Town and Parish Councils are kept regularly and fully informed of the courses of action contemplated or being taken;
- 2.2 All Planning, Enforcement, and other specialist Officers will have regard to this policy when carrying out their functions in relation to breaches of planning control.

3.0 GENERAL PRINCIPLES

- 3.1 The Council's authorised Officers will deal with anyone subject to the enforcement process in a courteous, impartial and objective manner, taking into account the Council's Equal Opportunities and Anti-Discrimination Policy.
- 3.2 All investigations will be carried out on a strictly confidential basis and the complainants details will not normally be released unless the Council is legally required to or appropriate permission is

given. In respect of serious breaches of planning control which warrant prosecution, or which result in an appeal, the complainant may be invited to give evidence. However, such occasions are rare and involvement in these cases will be on a voluntary basis.

- 3.3 Officers will assist those responsible and complainants to understand the legal requirements and obligations imposed by the relevant legislation as well as explaining why a particular course of action has been decided upon. In conjunction with planning officers they will advise on solutions to problems. Officers will be sensitive to the needs of both those responsible s and complainants, including the requirements for prompt responses and swift action, transparency of action, and the instigation of enforcement action commensurate with the nature of the breach and the resources available.
- 3.4 The Council will be mindful that enforcement action is a discretionary power to be used only when it is expedient to do so. In addition, it should be noted that it is not an offence to carry out development without permission, except for works to listed buildings, protected trees and the display of unauthorised advertisements. If a breach can be remedied by the imposition of conditions or minor changes then an application will be requested. This is in line with government guidance which makes it clear that enforcement action should not be taken to remedy the absence of a planning permission (or relevant consent) where development is otherwise acceptable on its planning merits.
- 3.5 Officers will provide a contact point and telephone number for further dealings with the Council and will encourage both those responsible and complainants to seek advice and information from them.
- 3.6 In the first instance officers will attempt to reach a negotiated solution to ensure compliance with legislative requirements and planning policies. If this is unsuccessful planning policy will be enforced by a range of enforcement options including statutory notices, formal cautions and prosecutions.
- 3.7 Where appropriate the Council will use its right to carry out covert surveillance of individuals or organisations. In doing so, Officers will comply with Human Rights legislation and the Regulation of Investigatory Powers Act 2000 and any other associated guidance along with any internal policies and procedures.
- 3.8 Where dual or joint enforcement action with another service provider or agency is contemplated, prior consultation will take place with that body and if appropriate a co-ordinated approach will be taken.

4.0 PLANNING ENFORCEMENT FUNCTION

- 4.1 Part VII of the Town and Country Planning Act 1990 (as amended) sets out the provision for taking enforcement action in respect of breaches of planning control. This is a discretionary power which is available to a Local Planning Authority. Section 172(3) of the Act defines a breach of planning control.
- 4.2 The planning enforcement function is carried out by specially authorised Officers on behalf of the Local Planning Authority.
- 4.3 Action will be taken with regard to the Act, secondary legislation, and guidance issued including:
 - The Town and Country Planning Act 1990
 - The Planning (Listed Buildings and Conservation Areas) Act 1990
 - The Town and Country (Use Classes) Order 1987
 - The Planning and Compensation Act 1991
 - The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
 - DOE Circular 10/97
 - PPG 18: Enforcing Planning Control
 - DETR Enforcing Planning Control: Good Practice Guide for Local Planning Authorities
 - ODPM Town and Country Planning Act 1990 Section 215 Good Practice Guide
 - DETR The Control of Flyposting
 - DCLG Best Practice Guidance on Listed Building Prosecutions
 - ODPM Circ 1/2006 Planning for Gypsy and Traveller Caravan Sites
 - The Development Plan
- 4.4 The Planning Enforcement Section is part of the Development Management team within the

Council's Planning Service. The team comprises a Planning Enforcement Team Leader, two Planning Enforcement Officers and a part-time Team Support Officer. For administrative purposes the District is split into two areas divided by the East Coast Railway line, with each Planning Enforcement Officer being responsible for enforcing planning control within his/her designated area.

- 4.5 Planning enforcement action is carried out on behalf of the Council, acting as the Local Planning Authority, and by Officers authorised, primarily the Head of Planning Services and the Planning Service Manager (Development Management), in accordance with the Council's approved scheme of delegation. Officers are authorised to enter premises to investigate actual or alleged breaches of planning control.
- 4.6 Enforcement complaints will be individually prioritised and dealt with in accordance with the approved scheme of prioritisation. Prioritisation of action will take into account the nature and severity of the alleged breach.

5.0 HOW COMPLAINTS WILL BE HANDLED

- 5.1 Complaints can be made in writing, by email, via the Council's website, in person, or by telephone. All complaints made by private individuals will be treated as confidential. Anonymous complaints will be accepted although it will not be possible to update the complainant or inform him/her of the outcome.
- 5.2 Complainants should be asked to provide as much information as possible about the alleged breach of planning control including the full site address, the nature of the alleged breach, how long it has been occurring, the name and contact details of relevant persons, and how it affects them.
- 5.3 Complainants may be required to maintain an incident log for a specified period of time, or to agree to have monitoring devices installed on their property, in order for a complaint to be fully investigated.
- 5.4 The Planning Enforcement Team will investigate all validated complaints relating to breaches of planning control such as unauthorised structures, changes of use, advertisements on private land, works to listed buildings or protected trees, significantly untidy land/buildings, and non-compliance with planning conditions. The Team cannot deal with civil matters such as neighbour or boundary disputes, advertisements on highway land/structures, encroachment onto highway land, fly-tipping or waste, noise nuisance, etc.
- 5.5 When a complaint has been accepted an acknowledgement letter will be sent advising of the case reference number and the name and contact details of the Case Officer. A site visit will be made as soon as possible but ideally within 10 working days of receipt, and the complainant will be contacted following this visit and informed of the initial findings.
- 5.6 Planning enforcement action can only be taken where it is considered expedient to do so and in the public interest. Expediency is based on an assessment of the harm resulting from the breach of planning control. The assessment of harm and the identification of the appropriate course of action will be made by enforcement officers in discussion with the Head of Planning Services and/or the Planning Services Manager (Development Management) and other officers providing specialist advice as necessary.
- 5.7 It may be necessary to seek specialist advice in order to make the harm assessment. This might be from Conservation Officers, Environmental Health colleagues, Cambridgeshire County Council Highways Authority and/or other such bodies.
- 5.8 When a breach of planning control has been identified and assessed there are 4 possible course of action which may be taken depending on the harm arising from the breach:
- to do nothing other than to inform relevant persons of the breach
 - to invite an application for consideration
 - to negotiate to remedy the breach
 - to take formal action
- More than one course of action may be taken during the course of dealing with the issue (eg formal action following failure to negotiate a voluntary remedy).
- 5.9 Where formal enforcement action is considered, a written report will be submitted by the Case Officer to the Planning Services Manager (Development Management) and/or the Head of

Planning Services for a decision to be made in accordance with the Council's adopted Scheme of Delegation. Occasionally this may be referred to the Development Management Panel at the discretion of the Head of Planning Services.

- 5.10 Complainants will be informed when a case has been closed and notified of the outcome of the investigation and the Case Officer's reasons for the decision taken.

6.0 STANDARDS OF SERVICE

- 6.1 The planning enforcement section will aim to provide a high standard of service to all its customers. Standards of service are set out in the Development Management Service Plan.

- 6.2 The enforcement of planning control will be guided by the principles that are contained within the Enforcement Concordat that has been formally adopted by the Council. This constitutes a framework for Local Authorities to work by committing them to good enforcement policies and procedures. The principles are standards, openness, helpfulness, proportionality, consistency, transparency, targeting, and a procedure to respond to complaints about the service.

Standards

- 6.3 The Council remains accountable to Central Government and the local electorate for its actions and omissions. This means that it must have clear policies and standards against which its actions can be judged.

Openness

- 6.4 The Council will provide information and advice to its customers in plain language on the law and procedures and will disseminate this as widely as possible. It will also be open about how it undertakes its work and how and why it has reached a particular decision.

Helpfulness

- 6.5 The Council believes that formal action should normally be used as a last resort and negotiations will be undertaken to try to achieve a satisfactory solution. The Enforcement Team will provide a courteous and efficient service and will identify themselves by name. Officers will provide a contact point and telephone number for further dealings with the Council and will provide a positive response to requests for advice and information. The Council will ensure that, wherever practicable, its enforcement and planning services are effectively coordinated to minimise any unnecessary overlaps and time delays.

Proportionality

- 6.6 Proportionality means relating the proposed enforcement action to the effect of the unauthorised development and any costs involved. Officers will endeavour to negotiate an acceptable solution. However, in some cases a breach will be so bad that there will be little or no room for discretion or individual interpretation. Other breaches will require action in line with the principle of expediency. Deciding what is reasonable or appropriate to control breaches of planning control involves the judgment of Officers and/or Members, having due regard to national and local planning policy guidance. In exceptional cases the final decision of what is reasonable may be made either by the Planning Inspectorate (via the appeal process) or ultimately by the Courts. Some breaches may be so serious that they cannot be permitted irrespective of the economic consequences, whilst at the other extreme some effects may be so trivial that it may not be worth committing vast amounts of resources to resolve them. In general the quality of the final outcome must be weighed against the cost of achieving it.

Consistency

- 6.7 Consistency of approach means taking a similar approach in similar circumstances to achieve comparable ends. A consistent approach will be followed in the advice or information given and in decisions on whether or not to invite an application or instigate enforcement action. Government guidance which makes it clear that enforcement action should not be taken to remedy the absence of a planning permission or relevant consent where development is otherwise acceptable on its planning merits will be followed.

Transparency

- 6.8 Transparency means making clear the processes by which a decision has been made and the reasons for which a particular course of action has been followed. This enables the Local Planning Authority to be fully accountable for its action should they be questioned.

Targeting

- 6.9 Targeting means making sure that resources are targeted primarily on those whose activities give rise to the most serious risks and that action is focused on the those responsible s who are responsible for the breach and who are best placed to remedy it.

Feedback

- 6.10 The Council will provide a well-publicised and effective feedback procedure which is easily accessible to its customers. In cases where issues cannot be resolved any right of appeal or recourse to another (such as the Local Government Ombudsman) will be explained by an Officer of the Council, providing details of the process and the likely timescales involved.

7.0 LIAISON

- 7.1 The enforcement service will endeavour to keep all interested parties informed on a regular basis of the actions taken in respect of specific alleged breaches of planning control.
- 7.2 Complainants will receive an acknowledgement of the complaint and a detailed update following the initial site inspection. Further correspondence will depend on the nature of the actions taken.
- 7.3 Those responsible will receive clear written advice specifying the action(s) required to remedy the breach of planning control.
- 7.4 Members and Town/Parish Councils will receive a quarterly report detailing the position of all current enforcement cases in the relevant area. Effective use will also be made of appropriate information technology. This will be in addition to individual notification of specific cases in which an interest has been expressed.
- 7.5 Officers will liaise with other specialist planning officers when necessary to obtain advice and recommendations. These comments will be considered in any recommendation for further action.
- 7.6 Where appropriate Officers will liaise with colleagues within Huntingdonshire District Council to ensure that a corporate approach is taken to address any breaches of legislation.
- 7.7 Advice will be sought from other bodies where relevant, and any resultant action will be co-ordinated where possible.
- 7.8 The Council will not tolerate bullying, harassment, or verbal or physical abuse of its Officers in the course of their duties and will consider action as appropriate which might include civil legal action and/or notification to the Police.

8.0 CONCLUSIONS

- 8.1 Planning enforcement action is a discretionary power which is carried out by Officers on behalf of the Council acting as the Local Planning Authority. Such action will be undertaken in a manner which accords with the Enforcement Concordat and which seeks to protect and enhance the environment within the District of Huntingdonshire.
- 8.2 The Council will aim to provide both a reactive and proactive service to identify and address breaches of planning control.
- 8.3 The Council will endeavour to provide an efficient and effective service.
- 8.4 Enforcement action will be taken in a fair and consistent manner for the purpose of achieving a good quality final outcome.