

PLANNING ENFORCEMENT UPDATE

Lead Officer: Tony Pomfret, Development Control Manager.

To update Members on current planning enforcement issues.
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Recommendation : That the report be noted and feedback from Members welcomed.

Resource Implications : Nil of this report, but any legal proceedings arising from planning enforcement would have financial implications for the development control budget.

1.0 Supporting Information :

1.1 This report updates Members on current planning enforcement issues and follows a similar report presented at the 24th June 2009 Planning Panel meeting.

1.2 From August 2009 to March 2010 the Council have received 114 complaints regarding alleged breaches of Planning Control.

1.3 The Complaints can be broken down as follows:-

Type of Breach	No of Complaints
Breach of Advertisement Control	13
Breach of Condition	25
Breach of Use of Land or Building	15
Operational Development by Householder	25
Other forms of Operational Development	27
Trees in Conservation Area/TPO	2
Untidy Site	7
Total	114

1.4 Each complaint is different and the length of time it takes to resolve the matter depends on the parties involved and the complexity of the breach. However, at present 66 complaints have been resolved and 48 are ongoing. The 114 complaints can be broken down as follows:

Advertisement Control

Retrospective applications for Advertisement Consent received	2
No breach identified following further investigation	1
Ongoing	3
Unauthorised Signage Removed	7
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	13

Breach of Condition

Retrospective planning application received to regularise breach	1
Planning condition discharged after action by owner/occupier	4
No breach identified following further investigation	5
Ongoing	15
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	25

Breach of Use of Land or Building

Retrospective planning application received to regularise breach	3
Breach stopped after negotiation with Council	1
No breach identified following further investigation	9
Ongoing	2
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	15

Operational Development by Householder

Retrospective planning application received to regularise breach	2
Breach considered "de minimis" and warrants no further action	5
No breach identified following further investigation	11
Ongoing	7
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	25

Other Forms of Operational Development

Retrospective planning application received to regularise breach	4
Breach considered "de minimis" and warrants no further action	6
Unauthorised development removed	1
No breach identified following further investigation	5
Ongoing	11
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	17

Trees in Conservation Area/TPO

Retrospective application received to regularise breach	1
No breach identified following further investigation	1
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	2

Untidy Site

Ongoing	7
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- 1.5 Where it is satisfied that a breach of planning control has occurred, the Council may consider using its statutory powers to seek to remedy the breach. These powers are discretionary and will only be used where it is considered expedient to do so.

- 1.6 Below is a breakdown of formal enforcement action that has been carried out by the Council. All notices served during this period have been complied with:-

Notices Served

Planning Contravention Notices	8
Enforcement Notices	1
S330 Notices	1
Breach of Condition Notices	1
S215 Notices	1

- 1.7 Recent successful examples of Enforcement

Advertisement Control

Solway View, Whitehaven

A large sign was erected facing the roadside advertising a local business.

The Council contacted the owners of the property and explained that due to not having advertisement consent they were currently committing a criminal offence which can be punishable at the first instance. Furthermore it was explained that the roadside of a busy road which was near to a school would be inappropriate for an advert that distracts road users and that the Council would not support a retrospective application. It was requested that the sign to be removed within a period of three weeks.

Unfortunately the owner did not remove the sign. Therefore the Council requested once more that the sign be removed and warned the owner that the Council may have to commence formal enforcement proceedings against them if they did not co-operate.

Again, the owner did not remove the sign, therefore a s330 Notice was served which is a legal document which requests the owner to provide the Council with further information regarding the sign such as how long had the sign been there and who owned the land etc.

The owner then removed the sign rather than answer the questions and the breach was remedied.

Breach of Condition

Corkickle, Whitehaven

The Council received a complaint from a member of the public that development was being carried out directly next to a tree within a Conservation Area. The property was visited on the day and the developers were requested to stop the works while an investigation was being carried out.

The Council ascertained that same day that the development was part of a planning application and that the developers had to submit to the Council protective measures to protect the tree before they carried out any development to the site. The developers were reminded of the

condition and it was requested that details of protective measures to the tree be submitted before any works were carried out.

That week the Council received the developers' planned measures to protect the trees and they were approved by the Council. Therefore the condition was discharged.

Fairladies, St Bees

The Council received a complaint that a developer had built a block of flats and one of the flats was in occupation which was in breach of a planning condition requiring that before the development was occupied, the developer submit plans for parking and the landscaping of the development and then once approved they had to carry out the required works before any flats were occupied. The developer submitted plans for a car park and also a footpath that connected the development to the centre of the village.

The Council had been informed that both the car park and the footpath had been blocked by the developer. The Council therefore contacted the developer to remind them of the planning condition and requested why the car park and footpath was blocked. Within 24 hours the Council received a response explaining that the footpath and car park were having some "last minute works" being carried out to them and that they would be opened once they had transferred ownership of the land to the Parish Council. The Council then received a further response within two days confirming that the footpath and car park had been transferred to the Parish council and were now accessible.

Breach of Use of Land

Car Sales, Coach Road, Whitehaven

The Council owned a plot of land at Coach Road, Whitehaven which had been unoccupied for a period of time. New tenants had moved on to the land and informed the Council's property agents, Capita Symonds, that they intend to use the land to store cars.

However, the Council quickly received reports from local residents that cars were being sold on the land.

The tenants were contacted and it was explained to them that this was in breach of the use of the land and to sell cars they would require a change of use application to legalise the breach. The tenants claimed that they were only storing cars on the land and no transactions took place.

During a subsequent site visit it was noticed that a sign advertising cars for sale was present on the site together with employees who were apparently trying to sell the cars.

The Council explained to the tenants that it was clear they were in fact selling cars from the site. Furthermore, it was explained that the Council would not support an application for the change the use of the site due to the site been within the vicinity of the Council's Pow Beck regeneration Scheme and also being very close to a housing estate

and a primary school. However they insisted they were going to submit a planning application regardless and were therefore afforded 21 days to do so.

After 21 days the Council still had not received a planning application and had to decide on the next course of action. If the Council decided to commence formal enforcement action the tenants could have appealed an Enforcement Notice and remained on the site for a number of months. The Council therefore contacted their property agents requesting that the lease be terminated. This was subsequently done and the unauthorised use ceased accordingly.

Householder Development

Moresby

The Council received an anonymous complaint that a householder was erecting an extension to the rear of their property. Anonymous complaints are not prioritised but still investigated if they appear to be genuine.

On visiting the site the owner and the builders were in the process of erecting a conservatory. They were of the view that planning permission would not be required due to replacing their previous wooden conservatory.

Planning permission was, in fact, required due to the conservatory being over three metres in depth. After informing the owners they subsequently applied for retrospective planning permission which was recently granted.

Other forms of development

Mill Yeat, Frizington

The Council received numerous complaints regarding significant development on agricultural land. A new access had been developed to the roadside of a field, and a static caravan and isofreight container had been placed on the land.

Due to the scale of the development a Planning Contravention Notice was served on the owners as soon as it was ascertained who the owners were. The Notice required them to answer a number of questions including what they intended to eventually develop on the site.

The owner answered all the questions and subsequently submitted a planning application for an agricultural building. However the application did not refer to the development that had already taken place and the scale of the proposed agricultural building was considered too large for the scale of farming that currently occurred at the site.

Therefore planning permission was refused. The owner was given 21 days to remove the container and caravan from the site and they did so within the time limit thereby remedying the breach.

2.0 Feedback from Members would be welcomed.

Others Consulted : Ongoing liaison with Legal Services.

Contact Officer : David Wright, Planning Enforcement Officer.

Background Papers : The Enforcement Register is available for inspection in the Development Control Office