Taking action over Planning Breaches

This section is about the council’s powers to take action following a reported breach of planning control.

The decision whether to take enforcement action has to be well founded. We will achieve this by thorough assessment of the relevant facts in each case.

Our approach will be no different to what it would have been when considering the merits of an application for planning permission before the development started. For instance if a development would have received planning permission, it will not be enforced against simply because it was carried out before planning permission was granted.

Formal enforcement powers will not be used against a trivial or technical breach of planning control which causes no harm to public amenity in the locality of the site.

The council is obliged to observe the government’s guidance on enforcing planning control. This is set out in:

Planning Practice Guidance (PPG) – Ensuring Effective Enforcement

http://planningguidance.communities.gov.uk/blog/guidance/ensuring-effective-enforcement/

In principle the Council considers a number of matters before deciding the appropriate course of action. These include:

Has development requiring planning permission taken place?

Not all things that are complained about turn out to involve development. Many minor building works, including extensions to residential properties, are development but do not require the planning permission. Such works are called ‘permitted development’. This means they benefit from a blanket planning permission granted by government.

Similar exemptions apply to some non-illuminated signs and certain changes of use of buildings. In such instances no action can be taken.

In some cases the council may have removed permitted development rights. Usually through a condition of a previous planning permission. Where this has occurred, detailed investigation will be required.

Is the unauthorised development broadly acceptable in planning terms?

Occasionally the council’s assessment of the situation is that planning permission would probably have been granted had an application been made. When this occurs we will suggest to the person responsible that they should submit a retrospective planning application.
If an application is not made, but it is likely that planning permission would have been granted without conditions, then no further action will be taken. We will advise that problems might arise should the property be sold.

**Is the development unacceptable?**

An enforcement notice seeking cessation of a use or removal of development should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice requiring those steps, taking into account the provisions of the development plan and any other material considerations.

**Is the development only acceptable with the imposition of conditions?**

Occasionally we may consider that the development could be made acceptable by with the imposition of conditions. For example to control hours of use or to carry out landscaping.

If the person responsible for the development declines the council’s request to submit a planning application, then we will consider issuing an enforcement notice to impose controls.

However, the action would not be aimed at removing the development. But gaining control of it and making it more acceptable.