



Local Enforcement Plan 2016



Planning & Environmental Enforcement Team

June 2016

Foreword

This Local Enforcement Plan was approved by Rother District Council Cabinet on Monday 6th June 2016

Enforcement Local Plan

1. Paragraph 207 of the National Planning Policy Framework 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 that 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. The Government has published National Planning Practice Guidance (March 2014). This notes that Local Planning Authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.
3. The main planning policies relevant are those contained in the development plan; the Rother District Local Plan (2006) and the Core Strategy Local Plan (2011-2028) and the subsequent Development and Site Allocations Plan. Those policies relating to public amenity; the High Weald AONB; Conservation Areas and Listed Buildings will be particularly relevant. National advice should also be taken into account and of particular relevance will be the National Planning Policy Framework and National Planning Practice Guidance.
4. The type and frequency of enforcement issues are wide ranging in Rother District. They vary from very minor technical breaches of the regulations which are not in the public interest to pursue, through to substantial development such as the carrying out of unauthorised earthworks or the establishment of industrial uses which are having a seriously harmful effect on amenity.

Enforcement Local Plan

5. The number of enforcement complaints remains high and therefore to maximise the use of limited resources enforcement action will only be taken in the wider public interest where breaches of planning control have a serious impact on amenity or the environment; having regard to the provisions of the development plan and any other material considerations (see Para 3). If formal action is taken (eg serving of an enforcement notice) and then not complied with, legal action will normally be taken. In addition, consideration may be given in exceptional circumstances to other measures to secure compliance such as the Council carrying out default works, or seeking an Injunction.

6. To apply resources to target those matters that are having a **serious impact** on amenity or the environment*; not all alleged breaches of planning control will be investigated. The Service Manager - Strategy & Planning has delegated powers to decide whether or not to take action in the following situations:
 - investigate alleged breaches of planning control,

Or

 - take enforcement action in respect of breaches of planning control which have been subject to investigation

7. It is expected that when members of the public, parish councils or district councillors make complaints that they do so giving their names and contact details and details of the allegation through the online enforcement

**The assessment is to establish whether the breach is or is not causing unreasonable harm to the amenity or the environment and whether it is or is not in the public interest to pursue action, having regard to the provisions of the development plan, NPPF and any other material considerations.*

Enforcement Local Plan

complaint form. This is so that the Council can inform them of the outcome of the investigation or indeed assist in the investigation (diary sheets etc). Only in exceptional circumstances will anonymous complaints be investigated.

Matters that normally will **not** be investigated are;

- those that appear not to involve development
- Development by private householders in respect of slight variations in excess of what would have been permitted by the General Permitted Development Order.
- Minor development which is causing no material harm to adjoining neighbours or has no adverse impact on the visual amenity in the wider public locality; and therefore is not in the public interest to pursue
- Other minor development that amount to a technical breach and which could not escalate and cause harm in the future.
- Anonymous complaints (normally)

This delegated function to take action or not is exercised by the Service Manager (Strategy & Planning), the Planning & Environmental Enforcement Team Leader, the Enforcement Advisor (Planning Officer) and the Development Manager.

8. A variety of other ' tools ' are used to protect the environment of the District. These are:

Enforcement Local Plan

- i) Issuing notices under Section 215 of the Town and Country Planning Act 1990 where the condition of land or buildings are having an adverse effect on the amenity of the locality.
 - ii) The serving of Planning Contravention Notices where there may have been a breach of planning control.
 - iii) The serving of Temporary Stop Notices where it is considered that an activity should be stopped immediately. Following the serving of such a notice, consideration will be given as to whether an ordinary Stop Notice should be served in conjunction with an enforcement notice.
 - iv) Unauthorised placards and posters may be obliterated or removed. In addition, legal proceedings can be taken in respect of anyone displaying advertisements otherwise than in accordance with the Regulations.
9. With regard to the procedure for dealing with complaints, these arise from a variety of sources, including members of the public; Councillors; Parish Councils and officers of the Council. Once a complaint is received an initial assessment will be made as to whether it is a breach and then the seriousness of the alleged breach in accordance with paragraph 6 and 7 above. If it is decided not to investigate any further the person who brought the matter to the Council's attention will be informed. With regard to the remainder of the complaints, an acknowledgement letter will be sent within **7 working days** of receipt and normally an initial site visit will be made within **14 working days**. After the initial visit an assessment will be made as to whether or not planning permission is necessary for the development. The complainant will be informed accordingly. If planning permission is required a decision will be taken as to whether to:

Enforcement Local Plan

- invite a planning application (only if permission is likely to be granted),
- take no further action
- monitor the breach to establish its significance
- take enforcement action in respect of those breaches that are unreasonably harming amenity or the environment, having regard to the development plan and any other material considerations,

Depending upon the type of breach, consideration will also need to be given to the steps that can be taken which were described in paragraph 8 this statement.

10. If enforcement action is authorised the complainant will be informed and the matter passed to the Solicitor to the Council. A certain amount of preparatory work will be necessary, such as investigation as to ownership before the notice is issued. Once a notice is issued, unless there is an appeal to the Planning Inspectorate, the site will be inspected after the compliance date. An appeal holds the notice in abeyance until determined. If after the compliance date the notice has been complied with, no further action will be necessary. If the notice is not complied with it is likely legal proceedings will be commenced. In exceptional circumstances consideration may also be given to the carrying out of default works or seeking an injunction.
11. If enforcement action has been taken the Council has the power, under Section 70c of the Town and Country Planning Act 1990, to refuse to determine a retrospective application for planning permission for the breach. This power, introduced in April 2012, helps to prevent owners frustrating the enforcement process.

Enforcement Local Plan

12. The Planning & Environmental Enforcement Team will continue to develop cross cutting work with other Divisions. This should enable resources to be focused on matters that are having a serious effect on the environment and quality of the District.
13. In carrying out investigations regard will be had to the Human Rights Act 1988; Police and Criminal Evidence Act 1984; the Equality Act 2010; Criminal Procedures and Investigations Act 1996 and the Regulation of Investigatory Powers Act 2000.
14. Further information on the Council enforcement function can be viewed on the following link:

<http://www.rother.gov.uk/article/10192/Alleged-Breaches-of-Planning-Control>

Copy of the online Complaint Form:

<http://www.rother.gov.uk/article/10192/Alleged-Breaches-of-Planning-Control?formid=409335#form>



June 2016