



1. Background

- 1.1 This document sets out Hart District Council's overall Planning Enforcement Policy. It complements the Council's corporate enforcement policy which flowed from the Cabinet Office publication "Enforcement Concordat" (1997).

2. The Enforcement Issues

- 2.1 This enforcement policy addresses the following issues:
- i) General Policy on Enforcing Planning Control
 - ii) Initiating Enforcement Action
 - iii) Cases involving listed buildings
 - iv) Cases in or which affect the setting of a Conservation Area
 - v) Advertisements
 - vi) Derelict or unsightly land or buildings

3. The Council's Approach to Planning Enforcement

- 3.1 The integrity of the development management process depends on our readiness to take enforcement action when it is considered expedient to do so. The quick initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and more difficult to stop.
- 3.2 The Council will not condone wilful breaches of planning law but it will exercise discretion about taking enforcement action if it is considered expedient to do so. (PPG18 para 5)

4. General Policy on Enforcing Planning Control

POLICY PE1

- a) Hart District Council recognises the importance of establishing effective controls over unauthorised development, to assist in the preservation and enhancement of the qualities of both the built and natural environment, and to protect public amenities;
- b) As local planning authority, the Council will exercise all reasonable powers granted under the provisions of the Planning Acts, including all other subordinate legislation, and other relevant legislation to control unauthorised development effectively;
- c) In considering whether it is expedient to start enforcement action, the Council will take account of the policies in the development plan and all other material considerations including the emerging Core Strategy and will assess whether the breach of planning control unacceptably affects public

amenity or causes harm to land or buildings which ought to be protected in the public interest;

- d) Formal enforcement action will not normally be taken where a trivial or technical breach of planning control has occurred that causes no material harm, or it is considered that planning permission is likely to be granted unconditionally. In considering whether something is trivial the Council will pay particular regard to whether the site lies within a conservation area where there is a statutory duty to ensure that new development preserves or enhances the character and appearance of the area. Where unauthorised works are carried out on a listed building the Council will also have regard to whether those works adversely affect its character and appearance.

5. Initiating Enforcement Action

- 5.1 The Council will try to persuade an owner or occupier of land to remedy voluntarily any harmful effects of unauthorised development. The Council will not however, allow discussions to hamper or delay any necessary formal enforcement action to make the development more acceptable on planning grounds, or to make it stop. (PPG18 para 5)

POLICY PE2

Immediate planning enforcement action will be taken against any unauthorised development which unacceptably affects public amenity, causes harm to land or buildings or creates an immediate danger. Where this is not the case the Council will seek to negotiate a resolution of the breach of planning, be either submission of a planning application or cessation/variation of the activity.

- 5.2 Where action is taken it may be in the form of stop notices, temporary or conventional, seeking injunctions from the Courts, prosecutions or direct action. The choice of action will be taken on the basis of what is considered to be likely to be most effective in securing compliance with planning control in the particular circumstances.

6. Cases involving listed buildings

- 6.1 Works which affect the reasons why a listed building is listed require Listed Building Consent. Where works have been carried out without consent an offence may have been committed. Subject to the extent and nature of the works, consideration will be given to whether to start criminal proceedings and/or serve a Listed Building Enforcement Notice to make sure that appropriate remedial works are undertaken.
- 6.2 In considering what action to take if works are carried out to a listed building without consent, the Council will have regard to the advice contained in Planning Policy Guidance Note No.15 (Planning and the Historic Environment).

POLICY PE3

Where works without consent have been carried out to a listed building and the works are considered to adversely affect its character and appearance, the

Council will issue a Listed Building Enforcement Notice and/or starting criminal proceedings.

The choice of action will be taken on the basis of what is considered to be likely to be most effective in securing compliance with planning control in the particular circumstances. Where the breach is irrevocable then it is likely that prosecutions will be taken both as a punishment and deterrent to others.

7. Cases in or which affect the setting of a Conservation Area

- 7.1 The Council has a statutory duty to make sure that any development that takes place within a conservation area either preserves or enhances the character and appearance of the area. Where development takes place without planning permission or conservation area consent and the Council believes that it adversely affects the character and appearance of a conservation area action will be taken within the overall framework of Policies PE1 and PE2.

POLICY PE4

Where unauthorised development has been carried out in a conservation area and the development does not preserve or enhance the character and appearance of the area, enforcement action will be taken in accordance with the general enforcement policies PE1.

8. Advertisements

- 10.1 The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 allows the display of some classes of advertisements and signs without the need to get consent from the Council.
- 10.2 Where an advertisement is being displayed without the appropriate consents it constitutes a criminal offence. Where the advertisement causes serious harm to amenity or public safety the Council will ask for it to be removed within a specified period. If the advertisement continues to be displayed after this time, formal prosecution proceedings will be considered. Equally, if an advertiser continually displays advertisements, either by replacing those previously removed or a large number of advertisements are displayed as in a commercial “campaign”, formal prosecution proceedings will be considered.

POLICY PE5

Where an advertisement has been displayed without express consent and it causes serious harm to amenity or public safety the Council will seek its removal. Where the advertisement continues to be displayed, is replaced, or a large number of advertisements are displayed at one time, prosecution proceedings will be commenced. Posters and placards may be removed by direct action.

9. Derelict or unsightly land or buildings

- 9.1 The condition of certain buildings or land can cause harm to the visual amenity of an area. Where the condition of land or buildings is causing significant harm to public

amenity, consideration will be given to serving a notice under the S215 of the Town and Country Planning 1990. The Notice will specify measures to improve the appearance of the land or buildings. If those measures are not taken within a specified time an offence has been committed. The Council can start prosecution proceedings and/or enter the land and carry out the works and then reclaim the costs from the landowner.

POLICY PE6

Where a building or land is in a condition which seriously detracts from, or affects the visual character of an area, the Council will ask for measures to be taken to improve the appearance of the land. Where no improvement works are carried out within a reasonable time, the Council will serve a Notice under S215 of the Town and Country Planning Act 1990. Where the Notice has not been complied with prosecution proceedings will be commenced and consideration will be given to entering the land and carrying out the works in default.

10. Works to trees subject to Tree Preservation Orders or within a Conservation Area. Derelict or unsightly land or buildings

- 10.1. The Council makes Tree Preservation Orders (TPO) to keep visually important trees, particularly where they are threatened by development. Similar protection applies to trees within Conservation Area. Consent to prune or remove trees protected by a TPO will not be given unless the Council is satisfied that it would be necessary to overcome a serious safety hazard, nuisance or detriment to local character, is in the interests of the health of the tree, or is reasonable in arboricultural terms with regard to good tree management or practice. It is a criminal offence to cut down, top, lop, uproot, wilfully destroy or damage a tree in a manner likely to destroy it, without the Council's consent. In determining any fine, the Court may take into account any financial benefit that appears likely to have accrued as a result of the offence. It will also be the duty of the landowner to plant replacement trees of appropriate size and species in the same location as soon as reasonably possible.

POLICY PE7

Where works are carried out to protected trees without consent and the works are

- not necessary to overcome a serious safety hazard, nuisance, or
- detrimental to local character, or
- not in the interests of the health of the tree
- is not reasonable in arboricultural terms with regard to good tree management or practice

the Council will instigate prosecution proceedings and may also serve a tree replacement notice to secure the replacement of any trees that are felled.