

Appendix B – Consultation Responses

James Dalglish

From: Hope, Jenny [Jenny.Hope@uuplc.co.uk]
Sent: 27 December 2012 13:49
To: James Dalglish
Cc: Sherratt, David
Subject: FW: Consultation - Planning Enforcement Policy [DC/12/4044]
Attachments: Enforcement_Policy_-_Consultation_Version[1].pdf

James,

Further to your notification below, please note that at this time United Utilities PLC has no specific comments to make to the consultation for the Planning Enforcement Policy document.

United Utilities PLC wishes to be included in any further consultations, particularly those relating to economic growth and your future development plans.

If you require any further information and/or would like to arrange a meeting to discuss this response or water and wastewater matters in further detail, please do not hesitate in contacting me.

Best regards

Jenny

Jenny Hope
LDF Planning Manager
Developer Services & Planning
United Utilities PLC

Tel: 01925 678785 [78785]
E-mail: jenny.hope@uuplc.co.uk

From: James Dalglish [<mailto:JamesDalglish@rossendalebc.gov.uk>]
Sent: 24 September 2012 12:26
To: Johnson, Lesley
Subject: Consultation - Planning Enforcement Policy

lesley.johnson@uuplc.co.uk

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BOROUGH COUNCIL 

Rated 'GOOD' by the Audit Commission
Licensing and Enforcement Department
Town Centre Offices
Lord Street
Rawtenstall
Rossendale
BB4 7LZ

Email: planningenforcement@rossendalebc.gov.uk
Web: www.rossendale.gov.uk

Date: 24th September 2012

James Dalgleish

From: Hubbard, Alan [alan.hubbard@nationaltrust.org.uk]
Sent: 23 December 2012 15:18
To: Planning Enforcement
Subject: Rossendale Council Consultation: Planning Enforcement Policy - response from National Trust

Dear Mr. Dalgleish,

Thank you for inviting National Trust to review and comment upon the Council's Enforcement Policy.

Following the replacement of PPG18: Enforcement by the NPPF and its more limited advice it is important that Councils' more detailed approach to enforcement is clearly set out. Accordingly the consultation on Rossendale's Planning Enforcement Policy is welcomed and supported.

Section 2 of the Policy, as set out both in its heading and in the detailed wording is limited to the need to seek planning permission for those works or changes of use that amount to 'development' and do not benefit from 'permitted development' rights. However, Section 3 then goes on to refer to other planning related matters such as those in respect of Listed Buildings, trees and advertisements – generally speaking these matters do not require planning permission but failure to seek the relevant statutory approvals that do apply can of course result in enforcement proceedings under the appropriate legislation. It would therefore assist if there was some clarity provided early in the document about its scope – presumably it is not intended to relate solely to development requiring planning permission but also to all the other planning requirements; accordingly it would be appropriate to extend the scope of the circumstances covered by Section 2 so that it generally refers to Listed Building Consent, tree and advertisement requirements/enforcement as well as planning permission?

Section 4, second paragraph:

- This again raises the question of the scope of the Policy: display of an advertisement without the benefit of express or deemed consent is a criminal offence... albeit National Trust would still support an approach that, except in extreme cases (such as clear and significant harm to highway safety), invited a retrospective application for formal consideration, including by interested parties, before Enforcement Action was formally pursued.
- The overall approach to be adopted by the Council as set out in the final two paragraphs of Section 4 is considered to be in accordance with the NPPF and is supported. It would perhaps be advantageous and helpful to include the two key concepts from the NPPF within this part of the Policy, i.e. that Enforcement Action is a) discretionary, and b) needs to be proportionate.

Section 6:

- Whilst Listed Building Enforcement work is a very small component of the overall enforcement casework there would be merit in drawing attention (in the part of this section that deals with the '4-year' and '10-year' rules) to the fact that there is no time limit on pursuing enforcement action against unauthorised work to a Listed Building.
- It would be helpful in the penultimate paragraph on page 5 (re-retrospective permission unlikely to be granted) if there was some advice as to the Council's approach to timescales for remedial action to be taken; i.e. if the Council advises that an unauthorised development is unlikely to be granted approval retrospectively would it then take formal action straightaway or allow a suitable period for the transgressor to remedy the breach?
- The first sentence of the penultimate paragraph on page 5 states "If it is unlikely that retrospective application would be granted for the development in question, the Council will commence enforcement action where the breach of control is causing sufficient harm to justify it". This form of wording suggests that there might be some categories of development where a retrospective application would not be granted, but where the Council would not commence enforcement works because the breach was not causing sufficient harm? If a retrospective application is unlikely to be granted that

will normally be because the breach of control is causing unacceptable harm; it is suggested that the wording here could be simplified to read: "If it is unlikely that retrospective application would be granted for the development in question, the Council will commence enforcement action where the breach of control is causing sufficient harm to justify it".

- Page 6, second para – bullet points – in respect of advertisement control it is perhaps worth noting that in addition to the land owner and anyone else with an interest in the land that action can also be pursued against those displaying the illegal advertisement and those who benefit from the illegal display (e.g. those companies or individuals referred to in the advertisement).
- Final para of Section 6 – this would benefit from additional text relating to the particular circumstances pertaining to advertisements, prosecutions through the Courts and the level of fines.

Section 7, final paragraph: probably needs a slight expansion of the text, i.e. "In the event that the Council serves a Notice but the breach continues the Council can apply for an injunction from the Courts and, if an injunction is granted, it becomes a contempt of Court to continue with the breach".

National Trust would welcome notification of when the Planning Enforcement Policy has been finalised and is formally adopted by the Council.

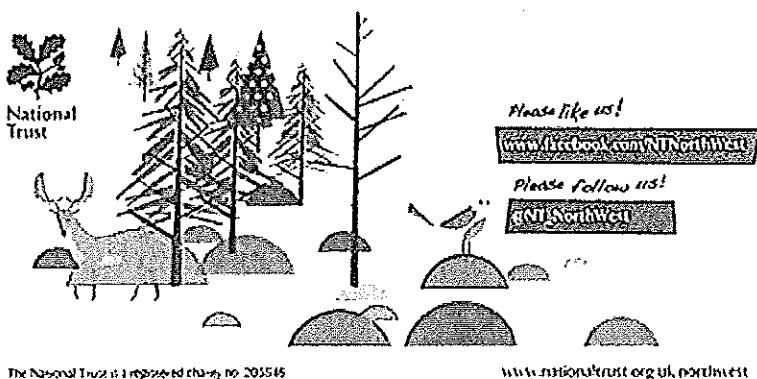
Regards,
Alan Hubbard

Planning Adviser
National Trust

61 Oxford Street
MANCHESTER
M1 6EQ

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✉: alan.hubbard@nationaltrust.org.uk



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No. 3

James Dalglish

From: Natalie.Garrad@manairport.co.uk
Sent: 20 December 2012 10:21
To: James Dalglish
Subject: Re: Consultation - Planning Enforcement Policy

Dear James,

Thank you for consulting and inviting the comments of Manchester Airport on Rossendale Borough Council's new Planning Enforcement Policy. I can confirm that we do not have any comments to make in relation to the policy ahead of it being formally adopted.

With kind regards,

Natalie

Planner
Manchester Airports Group
3rd Floor Olympic House
Manchester Airport
M90 1QX

(t) 0161 489 2767
(f) 0161 489 5895

James Dalglish ---24/09/2012 12:25:54---[rossendale good logo] Licensing and Enforcement Department

From: James Dalglish <JamesDalglish@rossendalebc.gov.uk>
To: "natalie.garrad@manairport.co.uk" <natalie.garrad@manairport.co.uk>
Date: 24/09/2012 12:25
Subject: Consultation - Planning Enforcement Policy

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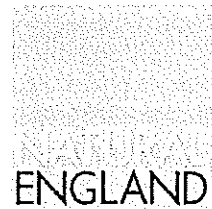
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Email: planningenforcement@rossendalebc.gov.uk
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natalie.garrad@manairport.co.uk

Date: 05 December 2012
Our ref: 65224
Your ref: J Dalgleish



planningenforcement@rossendalebc.gov.uk
BY EMAIL ONLY

Customer Services
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T 0300 060 3900

Dear Sir/Madam,

Planning enforcement policy

Thank you for your consultation on the above dated 24 September 2012 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England does not consider that this policy poses any likely or significant risk to those features of the natural environment¹ for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation.

If I can provide any further advice relating to this consultation, please do not hesitate to contact me. For all other correspondence, please contact the address above.

Yours faithfully

Janet Baguley
Lead Adviser
Land Use Operations
janet.baguley@naturalengland.org.uk

¹ Cases which might affect a SSSI, Natura 2000 site, National Park, Area of Outstanding Natural Beauty or a large population of a protected species and/or cases or generic issues which affect a large suite of sites or may set a precedent and thereby affect a significant quantity of habitat across the country

James Dalglish

From: NELSON, Judith [Judith.Nelson@english-heritage.org.uk]
 Sent: 29 November 2012 11:17
 To: Planning Enforcement
 Cc: NELSON, Judith
 Subject: Planning Enforcement Policy consultation

attn James Dalglish

Thank you for your email sent on the 24th September 2012 consulting English Heritage on the above draft document. We welcome the mention of listed buildings in the document but I suggest that the range of enforcement powers open to local authorities in this respect could be better explained in a separate section covering the historic environment. You will find useful information on our website and I suggest that you also seek the advice of your conservation officer if you have not already done so.

ENFORCEMENT ACTION TO SAVE HISTORIC BUILDINGS

Keeping historic buildings in good repair and, where possible, in use, is the key to their preservation. Owners of listed buildings are under no statutory obligation to maintain their property in a good state of repair, although it is in their interests to do so. Local authorities can take action to secure repair when it becomes evident that a building is being allowed to deteriorate.

The escalating enforcement measures (Section 215 Notices, Urgent Works Notices, Repairs Notices and Compulsory Purchase Orders) afforded to local authorities can be very effective tools to help secure the preservation of historic buildings.

In conjunction with the Institute of Historic Building Conservation, English Heritage has updated their guidance on enforcement to help local authorities make effective use of these powers. It provides step-by-step advice on the use of the main procedures and includes case studies and a selection of specimen letters, notices, schedules and agreements.

- Section 215 Notice – a relatively straightforward power to require the owner or occupier to carry out works to improve the external condition of a building or land if its neglect is adversely affecting the surrounding area.
- Urgent Works Notice – a power that allows a local authority to directly carry out works that are required urgently to make an unoccupied listed building weathertight and thus prevent further deterioration.
- Repairs Notice – a power that allows a local authority to specify to the owner works it considers reasonably necessary to secure the future of a listed building. If the repairs are not carried out, the power can lead to compulsory purchase of the building.
- Compulsory Purchase Order – when all other measures fail, the local authority's last resort is to compulsorily acquire a listed building in order either to repair it itself or more usually to sell it on to be restored by a buildings preservation trust or other new owner.

<http://www.english-heritage.org.uk/publications/stoppingtherot/acc-stopping-the-rot-summary.pdf>

<http://www.english-heritage.org.uk/publications/stoppingtherot/acc-stopping-the-rot-guidance.pdf>

In relation to the draft document I have concerns with the phrase "roof tiles on a rear extension not in keeping with the original roof tiles in appearance" as an example of where enforcement action may not be pursued. In general, this paragraph could be seen as giving the green light to these types of breaches and specifically, changes in permitted building materials could both individually and cumulatively undermine both the quality of the development itself and the character and appearance of the wider area.

James Dalgleish

From: ANDREW HARDMAN
Sent: 31 October 2012 21:46
To: Planning Enforcement
Cc: paul@lancashirebadgergroup.org.uk; diane@lancashirebadgergroup.org.uk
Subject: Planning Enforcement Policy

Dear Sir/Madam,

Thank you for including the Lancashire Badger Group in your consultation. In light of the recent incident regarding [redacted] and the bulldozing of a recorded badger sett on their [redacted] site this request could not come at a more apt time.

To all intense and purpose everything was done correctly. A very professional Ecology survey was done, all the badger setts were identified and a planning was submitted. This all formed part of the planning application, details such as a badger survey prior to commencement of work on site to ascertain the status of the badger setts.

The ecology survey never took place yet work was allowed to start on site.

The construction company was not supposed to be working in that area, how was this allowed to happen?

When the Badger Group raised concerns regarding the bulldozing of a main badger sett work carried on it barely registered as an inconvenience let alone an illegal act against a protected species.

Having read the policy document and applying this to the incident mentioned above a number of things become apparent.

No status is given to any protected species apart from tree orders. We would have considered it imperative that all work ceased immediately should a protected species be under threat be that intentionally or unintentionally.

Where specific conditions have to be met as part of the planning permission (ecology visits prior to commencement of any works on site). How are these conditions to be monitored, who is going to monitor them and what happens when these conditions are breached?

Will a blanket stop notice be put on the site until the situation can be remedied if remedy is possible.

I hope you can take these ideas on board and make the planning enforcement policy a better and more effective tool.

Should you wish to discuss any issues raised in this document please do not hesitate to contact me.

Regards Andy Hardman

on behalf of the Lancashire Badgher Group

James Dalgleish

From: Whitworth Town Council [info@whitworth.gov.uk]
Sent: 09 October 2012 10:35
To: James Dalgleish
Subject: Town Council comments - planning enforcement policy

Hi James,

At the meeting of Whitworth Town Council last Thursday (4 October 2012) the Town Council considered the Borough Council's current Planning Enforcement Policy consultation. My Council resolved that it accepts the content of the proposed enforcement policy, and hopes that the Borough Council will robustly follow the enforcement policy as and when it comes into effect.

Thanks and best wishes,
Karen

Karen Douglas
Town Clerk, Whitworth Town Council
(Standard working hours: Monday to Friday, 9am - 2.30pm)

Tel / Fax: 01706 852018
Email: info@whitworth.gov.uk
Web: www.whitworth.gov.uk

Whitworth Town Council
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Civic Hall (The Riverside)
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Whitworth
Lancashire
OL12 8DP

FORTHCOMING EVENTS:

Saturday 13 October: Mayor of Whitworth's Charity Dance & Buffet (all proceeds to Whitworth causes)
Sunday 11 November: Remembrance Sunday
Sunday 25 November: Whitworth Christmas Lights switch on
Monday 10 December: Civic Carol Service
Wednesday 19 December: Carols by Candlelight in the Memorial Gardens
Tuesday 1 January 2013: New Year's Day Duck Race

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James Dalglish

From: EAM Freeman
Sent: 25 September 2012 16:37
To: Planning Enforcement
Subject: PLANNING ENFORCEMENT POLICY

The policy as it stands will no doubt satisfy auditors, central government etc etc but I feel that it is lacking in some areas and, as you have encouraged the public to comment, I list my thoughts below:

It is unfortunate that, whilst you will follow up conditions on formal planning applications, the policy seems only to take a reactive approach to those situations where people have elected not to use appropriate channels before building/demolishing etc.

It is rather naive to think that the public will notify you of breaches particularly as you cannot guarantee that the offender will not be told who made the initial report. It is also common knowledge that, if one can 'get away with it' for a certain number of years no enforcement action can be taken.

This latter loophole appears to have been, and probably still is, fully exploited in Rossendale resulting in loss of revenue to the Council, poor visual impact and irritation to neighbours. I would suggest that you really need to take a more pro active approach.

I am aware that staffing issues make life difficult but one very simple example of how you might take action is to liaise more closely with departments such as the one dealing with garage lets. A simple form issued to you as each plot is let will alert you to expect an application to build a garage.

If you look around the Borough it is patently obvious that people are not bothering to apply for consent when they rent Council garage plots and a trawl of planning application archives will confirm this. As tenants are supposed to demolish garages at the end of tenancy there should be several.

Each breach loses the Council at least £80 in planning fees also deprives local architects of the fees they could charge in drawing up plans and, in some cases, results in very unsightly plots with garages used not for vehicles but for storage.

This is only one very simple example but I am sure there must be other scenarios where more internal liaison could produce a system which gave you greater control and would minimize the need for time consuming and expensive enforcement action.

It is easy for an outsider such as myself to criticize a document which has probably taken weeks to formulate but I hope that you accept the comments as constructive rather than critical and that it has given you some ideas.

E FREEMAN