Subject: Planning Enforcement Procedures and Communication
Date: Monday, 12 June 2017 at 17:13:30 British Summer Time
From: Shona Archer
To: _All Parish Councils
CC: Andrew Shaxson, Andrew Frost, Planning Enforcement

Dear All

I would like to take this opportunity to highlight the work of the planning enforcement service and to remind you of our procedures and notification process relating to ongoing cases.

In the first instance, whether an investigation proceeds beyond the initial inspection and assessment stage is based on an assessment of the circumstances of the case; secondly, a determination by the council about whether to take formal action will be informed by any significant adverse effects arising from the unauthorised development or use. If no material planning harm is identified, enforcement action will not be taken solely to regularise a development that does not benefit from planning permission.

Every attempt is made to keep complainants informed of the progress of investigations and of the eventual outcomes. However the identity of complainants is kept confidential unless subsequent court action warrants their evidence being made public. Therefore a wider circulation of information concerning on-going cases, to persons otherwise unaffected by the works reported, is considered to be inappropriate.

Parish Councils are notified of progress in relation to current cases, in which they are the complainant, in accordance with the Enforcement Strategy (see link below), following a site visit. Further communication is also carried out at key stages of the investigation particularly as a case progresses towards formal enforcement action. At the point of issuing a Notice, a copy is sent to the Parish Clerk regardless of whether it is the complainant. At other times, the case officer can, if requested provide an update on any current case.

It must be borne in mind that the Council's power to take enforcement action is discretionary and will only be taken where it is both expedient on planning grounds to remedy harm and in the public interest to do so. With this in mind, officers will normally seek to remedy breaches through negotiation which may result in the submission of a planning application for the Council's consideration. When formal enforcement action is taken, it must be proportionate to the breach of planning control but it is important to note that such action may be held in abeyance whilst related planning applications or appeals are determined.

On average we receive some 600 enforcement complaints each year and will give priority to those cases where greatest planning harm appears to be caused. Complaints are therefore prioritised, depending on their urgency and potential environmental/amenity harm. To assist the planning enforcement service it is now requested that complaints about alleged breaches of control are made using the on-line e-form which can be found at:
http://www.chichester.gov.uk/planningenforcement#enforcement

Telephone calls are exceptionally accepted for the most serious breaches of planning control. More information on the prioritisation of new cases and the type of action that can be taken, is available via the Enforcement Strategy http://www.chichester.gov.uk/CHttpHandler.ashx?id=27975&p=0

Those cases that are subject to formal enforcement action are reported to the Planning Committee on a quarterly basis via a Contraventions List. Included in the reported information is a statistical update on the number of cases open, performance figures and the number of notices issued. It is NOT a full list of all cases; it reports on matters that have reached authority to take formal action, a notice has been issued and any related appeal or prosecution. At this time,

consideration is being given to making access for parishes to this report more convenient but for now you can view the most recent (April) report using the following link to the Council's website: http://chichester.moderngov.co.uk/documents/g745/Public%20reports%20pack%20Wednesday%2026-Apr-2017%2009.30%20Planning%20Committee.pdf?T=10

We wish to continue to work closely with parish councils in relation to enforcement matters and I hope therefore that this information is helpful but please let me know if you have any queries.

Kind regards

Shona Archer

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E-mail or phone 44 (0) 1243 785166
Mail-Admin@chichester.gov.uk

Subject: Enforcement Email
Date: Monday, 10 July 2017 at 15:04:43 British Summer Time
From: Louise Chater
To: Birdham Parish Council, West Itchenor Parish Council, West Wittering Parish Council, East Wittering & Bracklesham Parish Council, Sidlesham Parish Council, Apuldram Parish Meeting, Oving Parish Council

Dear All,

I have been asked to contact you following the recent email from Shona Archer with the title Planning Procedures and Communications. Earnley Parish Council are very dissatisfied with the content of the email and would be very grateful if we can have your council's views on the matter.

Below is the governments statement on enforcement:

The web site states

Local Authorities have a responsibility for taking whatever enforcement action maybe necessary. It should be noted that local authorities have a range of enforcement powers that extend beyond planning.

When should enforcement action be taken?
There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.
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.
In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207:

- *National Planning Policy Framework 207.*

  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.

https://www.gov.uk/guidance/ensuring-effective-enforcement

Our view is that it is CDC's interpretation of the word discretionary is the issue: As we read it enforcement is a requirement but it is the action the discretionary.

Please see the link to CDC's Enforcement Strategy http://www.chichester.gov.uk/CHttpHandler.ashx?id=27975&p=0

Surrounding District Council's Enforcement Strategy:
Horsham's Enforcement Strategy states: Parliament has given local planning authorities the primary responsibility for taking whatever enforcement action is necessary within their area and the council will always exercise its planning enforcement powers rigorously when it is considered expedient to do so.

Arun District Council Enforcement Strategy states: If negotiation cannot secure a resolution to the case the Council will consider use of discretionary powers to take enforcement action. The nature of the breach will dictate what action will be most appropriate

Crawley Borough Councils website states: The effective and proper enforcement of planning control is particularly important in the Borough of Crawley. Whilst it is not a criminal offence to carry out development without first obtaining planning permission, it may constitute a contravention of planning laws and the Borough Council has powers to enforce those laws. Unauthorised developments can have serious and adverse impact upon neighbours and the local environment. Crawley Borough Council has a duty to take action in order to deal with breaches of planning control (I couldn't see a strategy)

Adur & Worthing Enforcement Strategy States: Breaches of planning control are taken very seriously by the Councils and it is their policy to take effective enforcement action when it is justifiable for sound planning reasons, exercising such powers as are available proportionately depending on the level of harm being caused.

The planning system operates to regulate the use and development of land in the public interest. In considering any enforcement action, Government guidance makes it clear that the decisive issue for Councils is whether or not the breach of control would unacceptably affect public amenity, or the existing use of land and buildings meriting protection in the public interest, and that any enforcement action should always be commensurate with the breach of planning control to which it relates. The Councils will always attempt to resolve enforcement matters amicably in the first instance. Where these initial attempts by the Councils fail to persuade the owners or occupiers of sites voluntarily to remedy the harmful effects of unauthorised development, negotiations will not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop.

We look forward to receiving your council's comments and if required a meeting with the Chairman on Planning Committees/Councils can be arranged if this is considered appropriate.

Kind regards,

Louise Chater MILCM
Clerk
Earnley Parish Council
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www.earnleypc.org