

Appendix A

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PLANNING ENFORCEMENT  
POLICY STATEMENT INCLUDING  
PRACTICE STANDARDS

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## 1 Objectives

1.1 Maidstone Borough Council's Strategic Plan 2009-12 sets out 5 'priority themes':-

1. A place to achieve, prosper and thrive
2. A place that is clean and green
3. A place that has strong, healthy and safe communities
4. A place to live and enjoy
5. A place with efficient and effective public services.

1.2 The Planning Enforcement service is an integral component of the planning system which is this Council's key statutory service with regards to the 'place shaping agenda'. By shaping places, planning affects each one of the 5 'priority themes'. Enforcement can be used as a 'stick' to ensure that the planning system delivers the developments, that have been the subject of the development control system, on the ground.

1.3 In terms of detailed objectives, the Enforcement Service seeks: -

- i) To investigate breaches of planning control
- ii) For the type of enforcement action to be commensurate with the harm
- iii) To be fair and be applied equitably.
- iv) For enforcement action to only be taken when significant harm is being caused.
- v) For enforcement complaints to be prioritised.
- vi) To operate efficiently and effectively.
- vii) As a preliminary consideration – to seek to resolve a breach through a negotiated settlement.

## 2 Background

2.1 Enforcement action is a discretionary activity but it is regularly required to manage development. Maidstone Borough Council acknowledges the importance of effectively controlling unauthorised development in to the protection of the quality of both the natural and built environment and the quality of people's living standards. The integrity of the Town and Country Planning process depends on the Council's effectiveness in taking enforcement action against unauthorised development when it is expedient to do so. Expediency depends on the degree of harm being

caused and whether or not a negotiated solution is likely to be achieved, whether it is a suitable course of action in comparison with other legislation and that it is advantageous for the Council to take such action rather than other statutory organisations (such as the Environment Agency).

- 2.2 This document sets out Maidstone's proposed Planning Enforcement Policy. Central Government, in the 'Good Practice Guide' for Local Planning Authorities (ref: the Department of the Environment, Transport and the Regions Circular No. 10/97 'Enforcing Planning Control' advises Local Planning Authorities to formulate a clear statement of their enforcement policies. This will provide a decision-making framework and enable effective enforcement standards, procedures and practices to be implemented and monitored. This Statement will inform members of the public of this Council's enforcement practices and standards.
- 2.3 Planning law is part of administrative law rather than criminal law and so it is not normally a criminal offence to breach planning control albeit there are some exceptions e.g. Listed Buildings and Advertisement Control. The key objective in taking enforcement action is to remedy the negative impacts of the breach of planning control rather than to punish the person(s) carry out the breach. The question of punishment and (if applicable) its severity is a matter for the courts.
- 2.4 Planning enforcement activity is almost always labour intensive. Thorough investigation of the relevant planning history and exhaustive evaluation of the facts is the bedrock of effective enforcement and takes considerable time and resources.

### 3 Central Government advice

- 3.1 PPG18 'Enforcing Planning Control (December 1991) sets down clear advice as to when enforcement action should be taken and sets down the general approach to enforcement. It states that local authorities should be guided by the following considerations:
  - i) Parliament has given Local Planning Authorities the primary responsibility for taking whatever enforcement action may be necessary in the public interest in their administrative area (the private citizen cannot initiate planning enforcement action);
  - ii) The Commissioner for Local Administration (The Local Ombudsman) has held, in a number of investigated cases, that there is "maladministration" if an Authority fails to take effective enforcement action which was plainly necessary, and has, occasionally, recommended a compensatory payment to the complainant for the consequent injustice.

- iii) In considering any enforcement action the key issue for the Local Planning Authority should be whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.
- iv) Enforcement action should always be commensurate with the breach of planning control to which it relates (e.g. it is usually inappropriate to take formal enforcement action against a trivial or technical breach of planning control which causes no harm to amenity in the locality of the site); and
- v) Where the Local Planning Authority's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should 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. The Local Planning Authorities should bear in mind the statutory time limits for taking enforcement action.

3.2 The 'Good Practice Guide' for Local Planning Authorities contained within the Department of the Environment, Transport and the Regions Circular No. 10/97 'Enforcing Planning Control' sets out some do's and don'ts in relation to enforcement action and states: -

#### DON'TS

- Don't enforce solely to regularise acceptable development.
- Don't enforce solely to obtain a fee.
- Don't give weight either way to the fact that the development has already taken place.
- Don't have regard to other immaterial (non planning) considerations.
- Don't let protected negotiations delay essential enforcement action.
- Don't seek to restore land to a better condition than it was in before the breach took place.
- Don't be too legalistic.
- Don't be strong with the weak and weak with the strong.
- Don't forget to withdraw a redundant Notice in good time.
- Don't require immediate compliance with an Enforcement Notice that does not give a period.

#### DO'S

- Do have enforcement principles.
- Do be prepared to give reasons for taking enforcement action, on inviting applications or ignoring breaches of planning control.
- Do use appropriate investigative powers.

- Do allocate the necessary resources to see action through to the end.
- Do delegate sensibly.
- Do use plain language.
- Do set priorities for enforcement action.
- Do be prepared to use all the enforcement powers available, commensurate with the seriousness of the breach.
- Do have regard to the Council's obligations under other legislation which may be involved as a result of enforcement action.

3.3 Mindful of this advice the Maidstone Borough Council intends to adopt the following strategic approach to enforcement.

#### 4 The Council's Approach to Enforcement

4.1 The Council accepts that the expeditious initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and more difficult to remedy and it recognises the importance of establishing controls over unauthorised development. The Council will not condone wilful breaches of planning control and will exercise its discretion to take enforcement action if it is considered expedient to do so. The Council will investigate alleged breaches of planning control, to determine whether a breach has, as a matter of fact occurred, and if it has, to determine the most appropriate course of action.

4.2 It is the Council's objective in taking enforcement action to: -

Ensure that decisions are made in accordance with the Development Plan unless material considerations (e.g. Central Government advice in the form of PPGs, PPSs and circulars etc) indicate otherwise and the development does not clearly and significantly affect: -

- i) The environment
- ii) The quality of the landscape
- iii) Its buildings and people, or
- iv) Highway safety

4.3 In determining whether or not it is expedient to take enforcement action the Council will:-

- Pay due regard to the Development Plan Policies in force, Central Government Guidance and to all other material considerations.
- Assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings.
- In appropriate cases, attempt to persuade an owner or occupier of land to voluntarily remedy any harmful effects of unauthorised development, but
- Not allow the requirement to negotiate to unreasonably hamper or delay enforcement action that may be required to

make, the development more acceptable on planning grounds or to make it stop.

- Not take action against trivial or technical breaches of planning control that do not unacceptably affect public amenity which are unlikely to intensify and where it is not in the greater public interest to do so. For example, changes to the size and location of approved developments by less than 250mm and, secondly, substituting of similar materials.
- Not take action solely in order to regularise an unacceptable development or obtain a fee.
- Make decisions which accord with the Human Rights Act 1998.

4.4 In meeting its objectives the Council will:-

- i) Ensure that reaction times (throughout the process) are proportionate with the level of harm caused by a breach.
- ii) Allocate resources appropriate to the level of harm caused by the breach.
- iii) Utilise all the legal powers (not necessarily solely Town and Country Planning) available appropriate to the breach.
- iv) Pursue action commensurate with the breach.
- v) When resources are fully stretched, the sole forces will be on the resolution of the top priority cases.

## 5 Strategic policies for enforcing planning control

5.1 The Council recognises its responsibility, given by Parliament, to investigate and resolve, as appropriate, breaches of planning control.

5.2 The Council has to deal with increasingly high volumes of complaints and has reviewed the enforcement function to deal with these complaints. There are a number of reasons for this increasing level of activity including: -

- i) An increasing public awareness of environmental issues.
- ii) An increasing negative approach to the development control process by the public in order to protect and enhance property prices.
- iii) Increased public participation in the development control process allied to the fact that other regulatory functions e.g. Building Control, Environmental Health, Highways do not allow for such direct public participation.
- iv) Increased public expectation of the Planning System to protect the quality of people's lives and an increasing expectation that planning, as opposed to other regulatory services will solve all problems between neighbours.
- v) Increased public expectation that the Planning Systems will punish any breach of planning control.
- vi) Lack of communication and respect between neighbouring land users.

- vii) Increasing tendency for Councillors to act as 'agents' and/or 'brokers' by applying pressure in the speed and level of enforcement action.
- viii) Although there are formal recourses over enforcement action or lack of enforcement action, notably, Judicial Review and the Local Government Ombudsman there are also a number of internal review sections within the Council.

5.3 This increased public awareness gives rise to an increased level of complaint. This necessitates the need to periodically review the tasks, performance and resources of the enforcement function through the Service Plan process to ensure that its resources are properly directed and managed in the interests of the Borough as a whole.

**POLICY EP1: To meet its statutory duty and meet the reasonable expectations of local residents the Council will review the enforcement function from time to time. Initially, this will be a 6 month review period with particular emphasis on the need for the 'matrix' priority system and every 3 years thereafter.**

## 6 Speed of reaction to complaints

6.1 The public expects their complaints to be addressed as urgently as possible. However, amongst the complaints received there are many which are not in fact planning matters and others that are more appropriately dealt with by other authorities or other functions of the Council.

6.2 It is recognised that complaints need to be investigated and seen to be acted upon reasonably quickly and efficiently. However, existing enforcement workload often precludes immediate action on all complaints received and therefore the Enforcement Section has adopted a system of prioritising investigation of complaints based on the effect of the breach of planning control. This is called the 'matrix' and has been agreed by Committee (see Appendix 1).

6.3 It is also necessary for the complainant and other interested parties to be informed of decisions taken on enforcement matters.

**POLICY EP2: All planning enforcement complaints received by the Council's enforcement function will be examined and, where appropriate, an initial site visit to verify the breach and prioritise the case will take place within 14 days of receipt.**

## 7 Prioritisation based on level of harm

7.1 Following careful consideration of the complaint, including research of the planning history, and once a site visit has identified the nature of the breach and the degree of harm caused by the breach, the complaint will be prioritised into categories based on harm caused to interests of acknowledged on planning importance. This Council's

adopted methodology is a 'matrix' system. The 6 criteria for prioritisation are:-

- Estimated resource to proceed with enforcement action
- Immunity from enforcement action
- Degree of harm being caused
- Local priorities
- Planning policy framework
- Future impact

Scores are calculated to rank priority.

**POLICY EP3: The Council's enforcement resources will be concentrated on those breaches causing the major harm or having the potential to cause major harm. All significant breaches of planning control will be prioritised using the approved 'matrix' methodology. However, the detailed weightings will be simplified within the next 6 months.**

7.2 The matrix system has been approved by Maidstone Borough Council's Planning Committee. To illustrate the implementation of this prioritisation system, for example, a Listed Building which has had extremely unsympathetic alterations to it over a period of time is likely to score highly in terms of prioritisation. A detailed example of an enforcement case is attached as appendix 1, this detailed methodology has already approved by Members.

7.3 There is often a clamour for enforcement action to be taken immediately which, for the reasons set out above, an unrealistic expectation. So in order to maintain an effective enforcement service and to manage the expectations of the public and Councillors, there must be reliance on a prioritisation system.

7.4 On occasions a breach of planning control which may start as a high priority causing serious harm may change and be brought partially under control to the point where little harm is being caused. The priority system must therefore be flexible enough to allow for changing priorities throughout the 'life' of a case.

## 8. Investigating alleged breaches of Planning Control

8.1 Town and Country Planning legislation provides a Local Planning Authority with a range of tools to investigate and resolve breaches of planning control. Investigative tools include Rights of Entry, Planning Contravention Notice and Requisitions for Information. Additionally, the Council has some technical equipment to monitor sites and has limited resources. As a result, the Council may require the assistance of local residents in monitoring or corroborating the alleged activities.

**POLICY EP4: The Council will use all the tools and facilities available to it in investigating breaches of planning control including the assistance of the public when appropriate.**

9. Using available enforcement tools

9.1 Once clear evidence has been obtained that a breach of planning control has as a matter of fact occurred, and that a breach is not immune from enforcement action, the Council has a range of options available to deal with the issue. In determining which option to adopt the Council will be mindful that the primary function of enforcement is to bring to an end the harmful effects of the unlawful development as soon as practicable.

9.2 In certain cases where very serious harm is likely to result, a Local Planning Authority has the facility of seeking the assistance of the Courts in restraining an anticipated breach of planning control. In such cases the Council will need to convince the Court that the breach is indeed likely to take place, will cause serious harm to interests of planning importance and that all material planning considerations, including Human Rights issues, have been taken into account.

9.3 If a breach of planning control is causing major harm and an Enforcement Notice has been served and the time for compliance has elapsed then the Council will consider taking Direct Action or Prosecution proceedings.

**POLICY EP5: The Council will use the full range of Enforcement and other Notices available to it and when appropriate will seek injunctions from the Courts to prevent or restrain breaches of planning control. In cases where major harm is being caused direct action or prosecution proceedings will be undertaken.**

10. Minor technical breaches

10.1 Enforcement action shall always be commensurate with the breach of planning control to which it relates and formal action against trivial or technical breaches of planning control which cause minor harm to amenity in the locality of the site will, in accordance with Central Government advice, not be taken.

11. Dealing with serious breaches of Planning Control

11.1 Occasionally, certain types of breaches of planning control cause serious harm to interests of acknowledged importance and can happen very quickly. For example, an unauthorised caravan encampment of over 10 mobile homes which, if immediate action is not taken, can result in permanent consideration of the use to the detriment of local amenity.

11.2 Although most breaches of planning control can be brought under control and the previous situation restored, on occasion such contraventions as harm to Listed Buildings or felling of trees the subject of a Tree Preservation Order (TPO) can cause irreparable

harm. In such cases it may be appropriate to use the most powerful tools to prevent or control permanent and irreparable damage.

**POLICY EP7: The Council will apply to the Courts for injunctions under the provisions of Section 187B of the Town and Country Planning Act 1990, and other legislation, to restrain anticipated and actual breaches of planning control where those breaches are, or are likely to, cause serious or irreparable harm to interests of acknowledged importance.**

12. Non-compliance with planning conditions

12.1 Simply put planning conditions are imposed to make an otherwise unacceptable development acceptable. Therefore, where conditional planning permission has been granted and those conditions imposed have not been complied with within a specified period, consideration will be given as to whether it is appropriate to issue an Enforcement Notice for non-compliance with the planning conditions imposed or to issue a Breach of Condition Notice.

12.2 The advantage of serving a Breach of Condition Notice is that there is no right of appeal to the Secretary of State against the Notice and, unlike an Enforcement Notice, its effect cannot be suspended by means of an appeal. The failure to comply with a Breach of Condition Notice is a criminal offence. A Breach of Condition Notice should not, however, be served if there is any doubt as to the validity of the condition.

12.3 The advantage of serving an Enforcement Notice is that its requirements can be more flexible than those contained in a breach of Condition Notice. Where an Enforcement Notice has not been complied with the Council can exercise its default powers by entering the land and carry out any works required by the Notice.

**POLICY EP8: Where conditional planning permission has been granted, but conditions have not been complied with, significant harm is being caused to amenity or other matters of significant interest (e.g. nature conservation) and it is in the public interest to do so, a Breach of Condition Notice or an Enforcement Notice will be served, depending upon the circumstances of each case.**

13. Granting unconditional planning permission for unauthorised development

13.1 Where development, which requires planning permission, has been carried out, or is in the process of being carried out, a careful assessment shall be made to establish if it is likely that unconditional planning permission would be granted for the development. If planning permission is likely to be granted, a retrospective planning application shall be requested. Where an application has been requested but not submitted within a reasonable time, the

owner/occupier of the land will be informed that without a specific planning permission for the development, there may prove to be conveyancing implications when disposing of the land as no evidence can be produced of planning permission having been granted for the development. Where there is no specific planning objection to the development, enforcement action will not normally be considered appropriate.

**POLICY EP9: Where development has been carried out without planning permission and unconditional planning permission would be likely to be granted but where the owner/occupier refuses to submit a planning application, the owner/occupier will be informed of the implications of having carried out the development without planning permission. Where there is no planning objection to the development, formal enforcement proceedings will not normally be initiated.**

14. Under-enforcement

- 14.1 Where development has been undertaken without planning permission and the development could be made acceptable by imposing planning conditions to remedy the impact of any breach, an application for retrospective planning permission shall be requested to be submitted within a reasonable period. If, after a reasonable period, the owner or occupier of the land appears unwilling to submit a planning application, an Enforcement Notice will normally be issued. The Notice would have the effect of granting planning permission subject to full compliance with those steps specified in the Notice, which will remedy or alleviate the injury caused by the development. The Enforcement Section, in these circumstances, will notify complainants together with the Ward Members (and where appropriate the Local Parish Council) that it is intended to take this action.

**POLICY EP10: Where development has been carried out without planning permission and following comprehensive assessment, it is considered permission could be granted subject to conditions but the owner/occupier refuses to submit a planning application, an Enforcement Notice will normally be served, the effect of which will be to grant planning permission provided the requirements of the Notice have been carried out.**

15. Periods for compliance with the requirements of an Enforcement Notice

- 15.1 When a breach of planning control has been considered to be unacceptable and significant harm is being caused, it is necessary to determine an appropriate period in which the contravener has to comply with any necessary steps to alleviate the breach of planning control. In determining periods for compliance it is reasonable to consider for example, the feasibility of relocation for a small business, the availability of alternative gypsy sites, the effect of enforcement action on important employment, the effect of enforcement on the

economic viability of a site, the affect of the action on the self employed and the social costs on the owner/occupier of the land in question.

- 15.2 It is not normally the Local Planning Authority's responsibility to seek out and suggest to an owner/occupier of land on which unauthorised development has taken place, an alternative site which may be more acceptable in planning terms. However, if a suitable site is known it will be suggested in order to build a constructive dialogue, and a time limit for relocation agreed. An Enforcement Notice will be served with a compliance period, which reflects the agreed timetable.
- 15.3 Where the unauthorised development provides valuable economic activity and enforcement action seriously affects its viability, the Council will advise the owner/occupier how long the activity or operation shall be allowed to continue or to be reduced to an acceptable level of intensity. An Enforcement Notice will usually be issued allowing for a realistic period for compliance for the unauthorised activity or operation to cease, or its scale to be reduced to an acceptable level.
- 15.4 Enforcement action against unlawful and unacceptable development may result in social costs such as homelessness to the occupants and often significant disruption to the education of dependents, and health. Whilst not condoning any unlawful residential use of land, social costs may be relevant in determining appropriate action. Human Rights matters are clearly a material planning consideration. It is therefore reasonable that these social costs shall be taken into account in determining periods for compliance.

**POLICY EP11: Where unauthorised development has taken place and causes significant harm, an Enforcement Notice will normally be issued which allows for a realistic period of compliance for the activity to cease, be relocated or its scale to be acceptably reduced. This will be carefully balanced against the need to ameliorate the harm caused by the development.**

16. Concessionary timetables

- 16.1 In cases where an Enforcement Notice has been served which provides a reasonable time to discontinue the unauthorised development from the site or to relocate, and serious attempts are shown by the owner/occupier to comply with the requirements of the Enforcement Notice, the requirements of the Notice may be waived or released to provide additional time to enable, for example, a family to find alternative accommodation, or for a business to relocate or cease trading. This will be dependent on the actual level of harm caused by the unauthorised development.

**POLICY EP12: Where it is clearly evident to the Enforcement Section, that serious attempts are being made to comply with the requirements of an Enforcement Notice, careful**

**consideration will be given to waive or relax any requirement in a Notice, including the compliance period.**

17. Ensuring Compliance

17.1 In cases where enforcement action has been taken and the necessary steps for compliance have not been undertaken in time, the Council has several options to seek to bring about compliance with the requirements of a Notice. The Council can bring prosecution proceedings or obtain an injunction or exercise default powers, having gone through the Courts first. Default powers, also known as Direct Action, involve the Council using contractors, agents and often the Police, to carry out any or all of the steps required. Each mechanism has its advantages and disadvantages. Successful prosecution proceedings will, to a degree, punish the contravener but will not in itself bring to an end a breach of planning control. It may deter further contraventions but fines are often small and payable over long periods. Costs in Council prosecution cases are normally high and are frequently not fully recovered. Default action is often effective and relatively quick, especially in removing structures, but, the cost is normally high (although can sometimes be recovered). The primary consideration in determining what mechanism to use to ensure compliance with an Enforcement Notice is removing the harm being caused as soon as possible.

17.2 Enforcement decisions will be taken in accordance with the adopted Development Plan unless material considerations (notably, central government guidance) indicate otherwise (as per Section 38(6) of The Planning and Compulsory Purchase Act 2004).

**POLICY EP13: The Council will consider using all the available tools to ensure compliance with an enforcement or other Notice and will select the mechanism that is most effective in bringing to an end a breach of planning control as soon as is practical.**

18. ENFORCEMENT PRACTICES

18.1 The following practices will be adopted in dealing with enforcement complaints within the Borough in order to achieve a consistent approach.

18.2 Equity – It is acknowledged that Councillors wish to help the public, as does the Council, however, on occasions both Parish and Ward Councillors simply 'transfer' a complaint to the Enforcement Section. Members need to be aware of the Code of Conduct and, moreover, compliance with its practice. The Enforcement Section has to deal with complaints on an equitable basis and prioritise using the 'matrix' system.

**Practice EN1: The Enforcement Section will deal with all complaints on an equitable basis and prioritise using the 'matrix' system or any successor system.**

19. Minor/Technical Breaches

19.1 All operational developments should be carried out strictly in accordance with the plans and drawings approved under a planning permission. These approved plans and drawings are set out in the Decision Notice. However, some changes can be minor in nature. For example, changes in the location or size of developments by less than 250mm may not warrant enforcement action because the breach is deemed to be minor in nature. However, each case will be carefully considered and the onus is on the developer to carry out development in accordance with the approved plans.

**Practice EN2: In certain cases, the difference between what has been built and what has been approved may be deemed too minor to warrant enforcement action.**

19.2 In determining whether a material change of use has occurred, size and type of vehicles will be taken into account and the overall effect on the character of the dwelling house and surrounding area.

**Practice EN3: Where a small commercial vehicle is parked in the curtilage of a dwelling house and is used solely by an occupant of that dwelling house to get to and from work and the vehicle(s) do not change the character of the dwelling house or surrounding area such use shall not be considered sufficiently material to constitute development. In other circumstances, planning permission is normally required and enforcement action will be considered.**

20. Performance Management

20.1 For the effective management of the enforcement service productivity will be regularly scrutinised including the speed. As examples, the following will be measured: -

- Number of cases opened and closed
- Number of Planning Contravention Notices (PCNs) served
- Breach of Conditions Notices
- Enforcement Notices
- Injunctions
- Prosecutions
- Stop Notices
- Number of complaints where breach identified
- Cases closed because breach was resolved by negotiation
- Cases resolved by the submission of a planning application.

## 21. Elected Members

21.1 Members of Maidstone Council will continue to be trained and updated on enforcement matters at least twice a year. Training will also be available for Parish Councils.

21.2 It is recognised that some breaches of planning control and their remedy are particularly frustrating for Members. For example, Members often find retrospective planning applications difficult but, by law, these have to be judged by their own merits as with any planning application the retrospective nature of an application should make no difference.

## 22. Communications

22.1 Effective communication channels are essential to the functioning of an effective enforcement service. However, too much communication, for example, weekly progress reports leads to an inefficient enforcement service because too much resource is spent on communication rather than 'getting on with the job'.

22.2 Communication of enforcement matters needs to take into account the confidential nature of some of the information held. Therefore, when communicating with parishes, it will only be possible to consider releasing confidential information once a parish has demonstrated that it has the relevant standing order to deal with information confidentially. A template of this standing order is available from KALC.

22.3 Together we can ensure effective communication by:-

- Complaints about alleged breaches of control will be accepted by letter, e-mail, telephone or by personal caller provided the complainant provides their name, address, telephone number and e-mail.
- Anonymous complaints will not be accepted, although the complainant will be encouraged to refer the matter to either their elected Ward Member or their Parish Council representative to advance their complaint, should they wish to remain anonymous.
- To avoid malicious complaints, anonymous allegations of breaches of planning control will not be accepted. Every effort, however, will be made to reassure anybody wishing to make a complaint that his or her details will be kept confidential so far as other legislation permits it to be.
- Leaflets and, in particular, website information on standards of service.
- Publicising of actions and impacts including informing Land Charges and incorporating details of formal enforcement action e.g. Enforcement Notices on the Statutory Register.

23. Responsiveness

23.1 Where urgent action is required, notably, works to protected trees and listed buildings and out of hours enforcement services will operate.

24. Prevention

24.1 Resources have to be managed efficiently but, within tight resource restraints, both Enforcement and Development Control Officers will continue to monitor and pick up on potential breaches early on, particularly with regard to large developments. Monitoring will be linked to the commencement of large and controversial developments and key stages/phases afterwards and will involve liaison with Building Control. Site Notices giving details of contact points within relevant organisations will be posted and reminders of the need to comply with approved drawings and conditions enclosed with planning documents. Encouragement will also be given to large developers to build in accordance with the Considerate Contractors Scheme.

25. Subjects of enforcement investigation and action

25.1 Matters such as technical breaches and under-enforcement have been covered under the Policy section. In addition, there may be other cases in which it is not expedient to take prompt enforcement action. For example, a 3 year temporary permission for a gypsy site has expired because the site and use were not causing very significant harm and there are clear human rights issues to be considered. In such a case, communication and negotiation will be undertaken first and then, if unsuccessful, formal enforcement action.

25.2 Conversely, if a non-conforming commercial use, for example, starts up in a residential area without planning permission and is causing significant harm in terms of noise and general disturbance then urgent enforcement action will take place normally by the serving of a Stop Notice. Similarly, where damage is being done to important wildlife habitats then the serving of a Stop Notice will normally take place.

26. Conclusion

26.1 The key stages are:-

- Assessment of whether or not a breach of planning control has occurred. If so, then
- Assessment of whether or not significant harm is being caused. If so, then
- Assess what type of enforcement action to take and prioritise based on degree of harm.

Apart from urgent cases, a negotiated solution is preferred to formal enforcement action but any negotiation shall be undertaken according to strict parameters and timescales.