



Review of planning enforcement

Summary of Recommendations



Review of planning enforcement

Summary of Recommendations

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government (DCLG)

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

© Crown Copyright, 2006

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

Any other use of the contents of this publication would require a copyright licence. Please apply for a Click-Use Licence for core material at www.opsi.gov.uk/click-use/system/online/pLogin.asp, or by writing to the Office of Public Sector Information, Information Policy Team, St Clements House, 2-16 Colegate, Norwich, NR3 1BQ.
Fax: 01603 723000 or email: HMSOlicensing@cabinet-office.x.gsi.gov.uk

If you require this publication in an alternative format please email alternativeformats@communities.gsi.gov.uk

DCLG Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 08701 226 236
Fax: 08701 226 237
Textphone: 08701 207 405
Email: communities@twoten.com
or online via the DCLG website: www.communities.gov.uk

November 2006

Product Code: 06PD04231/1

Summary of Recommendations

1. We recommend that the following actions are adopted.

- **Recommendation 1:** The Government will set indicators and give enforcement a higher priority in promoting planning.
- **Recommendation 2:** to accept the consultants' advice and not to widen the scope of planning fees to include a charge for enforcement.
- **Recommendation 3:** to charge separate fees for monitoring and enforcement of mineral and landfill sites when the powers in the Planning Act 2004 are available.
- **Recommendation 4:** local planning authorities should be encouraged to spend a proportion of their Planning Delivery Grant on enforcement perhaps through allocating a proportion of Planning Delivery Grant for performance on enforcement if a suitable indicator can be developed.
- **Recommendation 6:** seek agreement of Department for Constitutional Affairs, Cabinet Office, Home Office and Treasury that fines should go to the local planning authority that had brought the successful prosecution.
- **Recommendation 7:** the following initiatives will be linked to the general thrust of the Culture Change agenda.
 - a) Enforcement staff should have a career structure.
 - b) Staff should be encouraged to rotate between all aspects of development control including enforcement. This would ensure that enforcement is understood by all planning staff.
 - c) There should be a common salary scale for all planning staff. Currently enforcement officers tend to earn less than other planning/development control officers.
 - d) Training should cover all aspects of planning, leading to a recognised professional planning qualification which includes planning enforcement. There should also be a specialist qualification in planning enforcement.
 - e) Lawyers needed to be well versed in planning enforcement and it would help if they were also aware of other enforcement regimes such as listed building control, minerals planning control, tree preservation orders, outdoor advertisements control, maintenance of neighbourhood amenity/waste land (s215 notices), hazardous substances control, environmental protection, building regulations, health and safety.

- **Recommendation 8:** the Government will work with local authority organisations to raise the profile of planning enforcement by taking forward the following action.
 - a) Steps should be taken by local planning authorities to improve and promote the image of enforcement through better PR including publicity for successful enforcement cases and court action.
 - b) Good practice should be promoted by the Planning Advisory Service for example via conferences, seminars and magazines which could also promote and explain new procedures.
 - c) Local planning authorities' press releases should publicise successful prosecutions and actions taken to raise public awareness that enforcement was taken seriously.
 - d) Groups for all enforcement officers should be set up to act as a forum for the dissemination of best practice.

- **Recommendation 9:** enforcement should remain discretionary.

- **Recommendation 10:** developing without planning consent or in breach of a consent which has been granted is not and should not be an offence. Criminalisation would be an inappropriate and disproportionate response.

- **Recommendation 11:** no change to the current principle of allowing retrospective planning permission.

- **Recommendation 13:** there should not be higher fees for retrospective planning applications.

- **Recommendation 14:** all the enforcement powers should remain available for local planning authorities to use.

- **Recommendation 15:** the good practice guide should contain instructions on how local planning authorities should use stop notices to minimise the risk of compensation.

- **Recommendation 16:** Temporary stop notice Regulations and guidance in the form of an accompanying Circular should be issued before the temporary stop notice provisions in the new 2004 Planning Act come into effect.

- **Recommendation 17:** The new good practice guide should offer practical advice on how to use injunctions successfully.

- **Recommendation 18:** There should be no change to the existing arrangements that there should be no right of appeal against a breach of condition notice.

- **Recommendation 20:** an appeal against refusal of planning permission for a retrospective application should be heard together with the enforcement appeal.

- **Recommendation 21:** that all the grounds of appeal should remain in their current form. (If the ten-year rule were to be abolished ground (d) would require amendment). A clearer explanation of all grounds of appeal would be given in guidance.
 - **Recommendation 22:** to seek the agreement of the Treasury to the whole of the deemed application fee going to the local planning authority to help to pay towards the cost of enforcement. With local authorities responsible for administering the administrative fee system, including the initial calculation of the deemed application fee which they must already do. The Planning Inspectorate would be able to arbitrate where the amount was in dispute and the appellant could still proceed with the appeal while the fee was settled.
 - **Recommendation 23:** With the agreement of DCA, we will commission research to produce a good practice guide to assist Magistrates when dealing with planning enforcement cases.
 - **Recommendation 24:** guidance on the appropriate level of fines will be included in the good practice guide for Magistrates.
 - **Recommendation 25:** advice on enforcement should remain as three separate documents – currently PPG18, Circular 10/97, and Good Practice Guidance for local authorities. They would be targeted, user friendly and updated (details in paragraph 53).
2. We recommend that further research and consultation should be carried out before the following are adopted.
- **Recommendation 5:** commission further research to look into the practicability of charging for compliance and monitoring.
 - **Recommendation 12:** before proceeding with the unlawful development notice or the new planning contravention notice further consultation will be necessary.
 - **Recommendation 19:** to consult further on the proposal to abolish the ten-year time limit for taking enforcement action. To keep the four-year time limit for dwelling houses and operational development.