

Planning for Ward Councillors



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THE IMPORTANCE OF PLANNING AT A LOCAL LEVEL

- Planning proposals and decisions matter to the community.
 - Generally more members of the public turn up for a planning committee than a full council meeting.



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A BRIEF INTRODUCTION TO PLANNING

High Level

- Planning is about making places, developing communities, and shaping the future, to meet identified needs.
- Upholding the wider public interest.

Everyday Level

- What people and businesses want to do – or see happen – with buildings and land. Most common examples:
 - House extensions and alterations
 - New housing and employment development
 - Changes of use

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COUNCILLORS ROLE

- Helping to set the vision and culture within the planning service, and working with officers.
- Making sure that local people are involved in planning
 - Acting as a liaison between communities and the council
 - Raising local issues
 - Helping residents to understand what the council is doing
- Local authority officers support councillors and deliver the service to applicants and residents.
- The efficiency and effectiveness of officers is really important in how people perceive the planning service (along with councillors and the planning committee).

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GOOD PRATICE

- If an member or substitute member of the planning committee visit development sites with an officer to avoid any accusation of bias or being pre-determined
- Have regard to local issues raised by residents, in consultation comments and at committee (where appropriate)
- Exercise power to override the scheme of delegation in the constitution
- Focus on material planning considerations
- Have regard to the bigger picture and how the development fits in with the needs of the District

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THE DEVELOPMENT MANAGEMENT SERVICE

- Development management is the process of deciding whether to grant or refuse planning permission and other related consents.
 - This is often where residents sit up and take notice and will get in touch with you.
- Applications are determined in accordance with the development plan, unless material considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004
- We work to ensure that the process is responsive, reliable, transparent and efficient.
 - Planning decisions affect peoples' lives and the value of land. It is critical that the decision is made fairly and in accordance with policies that have been tested and found sound, and in the public interest.

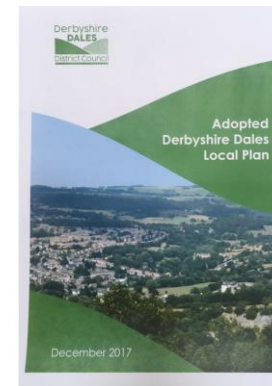
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WHAT IS THE DEVELOPMENT PLAN?

- Local Plans: development plan and supplementary planning documents adopted by the Local planning Authority

Know and Understand
Your Local plan!



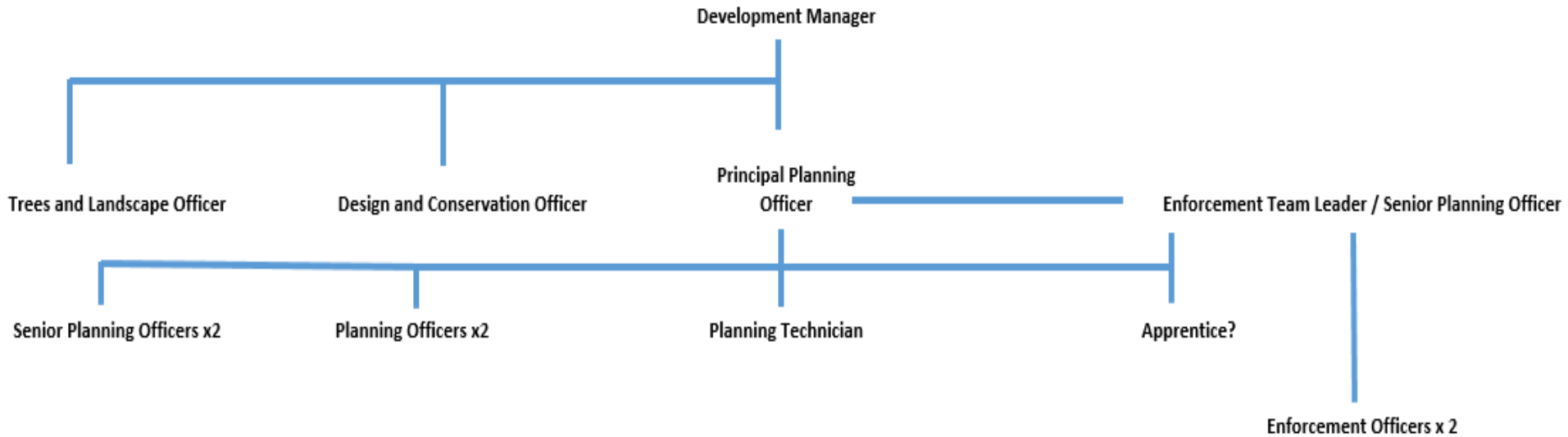
- Neighbourhood plans: where supported by the local community at referendum and subsequently 'made' by the local planning authority.

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THE DEVELOPMENT MANAGEMENT TEAM:-

Team Structure:

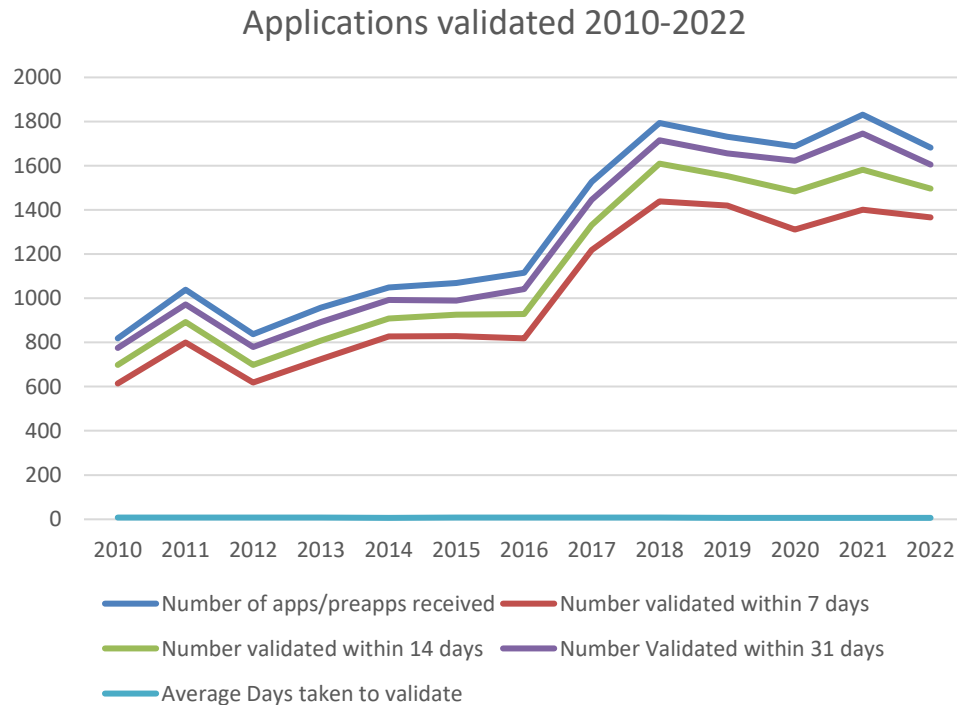


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DEVELOPMENT MANAGEMENT – KEY FACTS

- The Team received 1700 valid applications last financial year



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DIFFERENT PLANNING APPLICATION TYPES

- Householder Application
- Full Planning Permission
- Outline Planning Permission Reserved Matters Planning Application
- Non-material amendment following a grant of planning permission
- Listed Building and Conservation Area Consent
- Notice of Intention for Agriculture or Forestry Development
- Consent to Display an Advertisement
- Lawful Development Certificate
- Removal / variation of conditions
- Prior Notification
- Approval of Conditions Consent Under Tree Preservation Orders
- Notice of proposed works to trees in a conservation area

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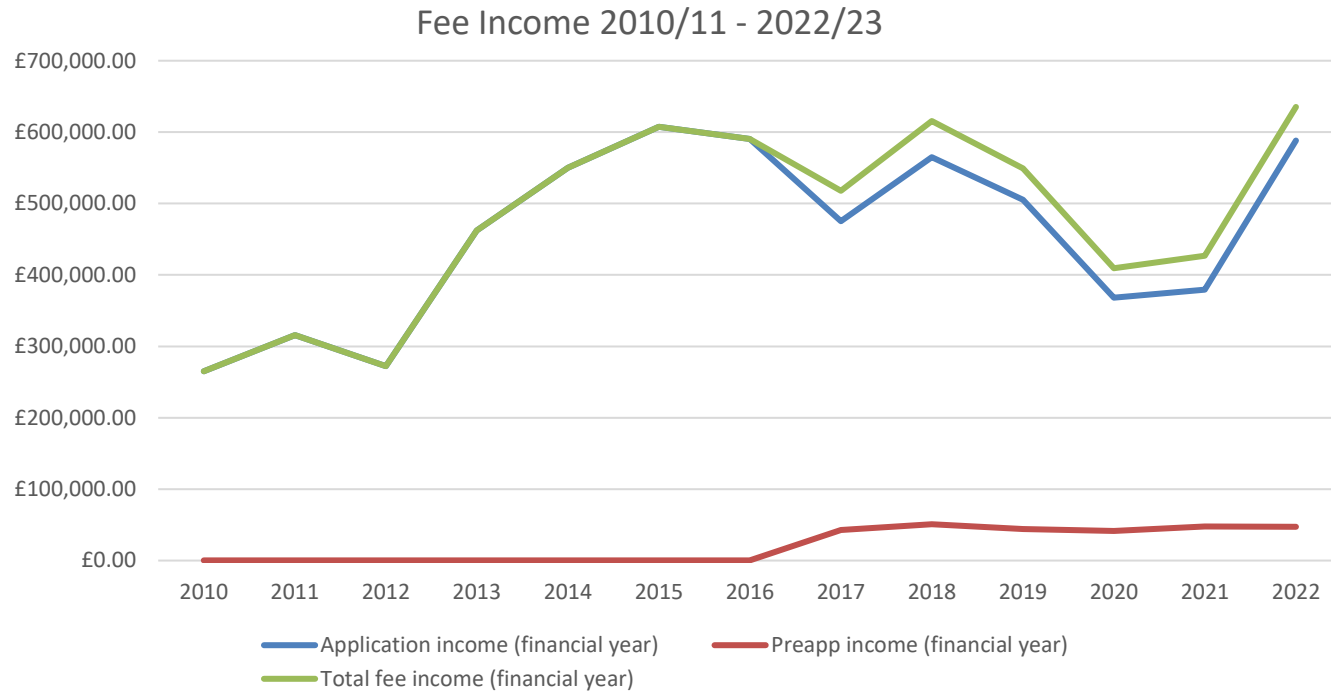
DEVELOPMENT MANAGEMENT DUTIES

- To process and determine planning applications received
 - Planning Act 1990
 - DMPO 2015
- Various duties in relation to publicity and consultation
- Investigate breaches of planning control and given powers to remedy such breaches by statutory and other means
- Pre-application advice encouraged by the government, but discretionary.
 - A new chargeable service for pre-application advice began on the 1st April 2017

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DEVELOPMENT MANAGEMENT FEE INCOME



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PRE-APPLICATION ADVICE SERVICE

- New chargeable pre-application advice began on the 1st April 2017
- Ensures that the service is structured and can be delivered in a way that is sustainable and reliable
 - Allows the public to engage in a positive and proactive manner with the Council prior to the submission of an application
- Discretionary – Fees can only cover the costs of providing the service
- £50,000 of income per annum (approximately on average)
- Charging schedule available to view online. Submissions can be made online. Paperless service.
- Free advice to other local bodies (Parish and Town Councils) and fully affordable housing schemes

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HOW WE ENGAGE YOU AND THE COMMUNITY

- Statement of Community Involvement 2021
 - Explains to local communities and stakeholders how they will be involved in the determination of planning applications
- The Council encourages the community to be involved in all the different types, and scale of applications for planning permission for which it is the local planning authority

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STATUTORY PUBLICITY REQUIREMENTS (DMPO)

Publicity requirements for Planning Applications

The following are the statutory requirements for publicising planning applications:

	Site Notice	Site Notice or neighbour letter	Press	Website ²
Major applications		X	X	X
EIA dev with environmental statement	X		X	X
Departure (i.e. Applications which do not accord with the development plan in force in the area)	X		X	X
Development Affecting a Public Right of Way	X		X	X
Non-major		X		X
LB with exterior works	X		X	X
Variation or discharge of condition attached to LBC or CAC or involving works to exterior of listed building	X		X	X
Applications for development which would affect the setting of a listed building, or affect the character or appearance of a conservation area.	X		X	X

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DDDC PRACTICE

- Within the Derbyshire Dales, all planning applications are publicised either by means of press advertisement and/or site notices and individual neighbour notification with the following exceptions:
 - Applications where the determining authority is not Derbyshire Dales District Council will not be subject to any of the three methods of publicity referred to above;
 - Discharge of conditions applications;
 - Prior Notification Applications (where the Council does not deem that its Prior Approval is required), and;
 - Certificate of Lawful Existing or Proposed Use or Development Applications (unless it is considered a worthwhile exercise to ascertain relevant information about the content of a specific application from sources such as neighbours or Parish / Town Councils).

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NEIGHBOUR NOTIFICATION

- Neighbour notification takes the form of a standard letter generated from the District Council's mapping system and is delivered by post within 10 working days of the valid date of the application
- The minimum requirement is to notify any neighbouring occupiers whose property lies within 10 metres of the application site boundary (red edge).
 - Property points within 10m of a development site are automatically identified by the Council's Geographic Information System (GIS).
- 20m buffer applied in the following scenarios:
 - Major development
 - development which is likely to cause nuisance through noise, smell, dust etc;
 - development which would significantly increase the number of people or the amount of traffic coming into a residential area;
 - development involving significant activity during unsociable hours;
 - development introducing significant visual changes to a neighbourhood;
 - buildings of over three storeys;
 - development affecting the character of an ancient monument, archaeological site or historic building;
 - proposals having a significant effect on trees that are the subject of a Tree Preservation Order.

SITE NOTICES AND PRESS ADVERTISEMENTS

- Site notices are posted within 10 working days of the receipt of a valid planning application – giving the public 21 days to comment (30 days in the case of EIA development)
- The notice will be displayed where it is visible
 - where possible on a gate, door, post, wall or fence which forms the boundary of the site. If this is not possible, then a lamp post or telegraph pole on the frontage of the site will be used
- Applications requiring a press advertisement will be advertised in a local newspaper on a fortnightly basis. Applications in the Central area will be advertised in the Peak Advertiser and applications in the Southern area will be advertised in the Ashbourne News Telegraph.

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CONSULTATION WITH WARD COUNCILLORS

- Ward Members are sent consultation emails for all applications received in their wards, or notified of applications received for information (where consultation is not required)
- Weekly lists of applications received and determined are sent out to ward members each week

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WHAT CAN THE LOCAL PLANNING AUTHORITY CONTROL?

- The Local Planning Authority can exercise control over development
- What is Development?

Sect. 55 of the Planning Act “Development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Includes:

- building operations (e.g. structural alterations, construction, rebuilding, most demolition);
- material changes of use of land and buildings;
- engineering operations (eg groundworks);
- mining operations;
- other operations normally undertaken by a person carrying on a business as a builder.
- subdivision of a building (including any part it) used as a dwellinghouse for use as 2 or more separate dwelling houses

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Development

The categories of work that do not amount to 'development' are set out in section 55(2) of the Town and Country Planning Act 1990. These include, but are not limited to the following:

- interior alterations (except mezzanine floors which increase the floorspace of retail premises by more than 200 square metres)
- building operations which do not materially affect the external appearance of a building. The term 'materially affect' has no statutory definition, but is linked to the significance of the change which is made to a building's external appearance.
- a change in the primary use of land or buildings, where the before and after use falls within the same use class.

Development

- Permitted Development (Town and Country Planning (General Permitted Development) (England) Order 2015 (and as amended by 2016, 2017, 2018, and 2019 orders).
 - Two types:
 - Formal notification process
 - Permitted subject to meeting conditions and limitations

PART 1: Development within the curtilage of a dwellinghouse

PART 2: Minor operations

PART 3: Changes of use

PART 4: Temporary buildings and uses

PART 5: Caravan sites and recreational campsites

PART 6: Agricultural and forestry

PART 7: Non-domestic extensions, alterations etc

PART 8: Transport related development

PART 9: Development relating to roads

PART 10: Repairs to services

PART 11: Heritage and demolition

PART 12: Development by local authorities

PART 13: Water and sewerage

PART 14: Renewable energy

PART 15: Power related development

PART 16: Communications

PART 17: Mining and mineral exploration

PART 18: Miscellaneous development

PART 19: Development by the Crown or for national security purposes

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Material Considerations

What are material considerations?

A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision.

Material considerations can include (but are not limited to):

- Overlooking/loss of privacy
- Loss of light or overshadowing
- Parking
- Highway safety
- Traffic
- Noise
- Effect on listed building and conservation area
- Layout and density of building
- Design, appearance and materials
- Government policy
- Disabled persons' access
- Proposals in the Development Plan
- Previous planning decisions (including appeal decisions)
- Nature conservation

However, issues such as loss of view, or negative effect on the value of properties are not material considerations.

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Material Considerations

- what they are and are not - decided by statements of national policy or by decisions of the courts
- the **weight** that should be attached to each consideration in any particular case is for the decision taker



National Planning Policy Framework

The National Planning Policy Framework (2021) is a material consideration in respect of decision making:

Para 11 - Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date*, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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Meaning of Out of Date

- Court of Appeal:
- “... overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date”.

DECISION MAKING - SCHEME OF DELEGATION

- Officers deal with over 90% of all applications (delegated)
- Local Members are able to override the scheme of delegation
 - Notification to the DM or Case Officer to be given in writing, within 21 days of the relevant weekly list of applications setting out the reasons for planning committee consideration
- Scheme of delegation is based on the principle that all applications are delegated by officers except:
 - Major applications (exc. applications under s73), any application which receives 5 or more unresolved objections, EIA development, 3 or more dwellings outside of the settlements of Ashbourne, Matlock, Wirksworth and Darley Dale, applications which the DM considers to be sensitive, Council development and an application known to be made by an officer or councillor.

DECISION MAKING – CAN THIS BE CHALLENGED?

- Appeal - Secretary of State is a higher authority and the Planning Inspectorate (PINS) stand in their stead – more forensic examination of issues from national policy position
- Costs for unreasonable behaviour (even when not sought) – decisions based on evidence?
- Judicial Review and Ombudsman

DECISION MAKING

- Reasons for Refusal must be:
 - ✓ Accurate
 - ✓ Directly related to the development proposal
 - ✓ Have regard to the development plan
 - ✓ Relate to material considerations

Granting Planning Permission

- In accordance with the development plan – unless material considerations indicate otherwise
- To make an otherwise unacceptable development acceptable:
 - Conditions
 - Planning Obligations s106

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DEVELOPMENT MANAGEMENT PERFORMANCE

- High Performing Service
 - Speed and Quality of Decision Making
- Designation Criteria
 - Less than 60% of major applications dealt with within 13 weeks or agreed extension of time period
 - Less than 70% in the case of non-major applications
 - 10 per cent of an authority's total number of decisions on applications for both major and non-major development made during the assessment period being overturned at appeal.

The Planning Guarantee allows for an applicant to secure a refund of the planning fee where a planning decision has not been made within 26 weeks of submitting a valid application if an extension of time has not been agreed with an applicant.

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PLANNING ENFORCEMENT AND EXPEDIENCY

- A breach of planning control is defined in [section 171A of the Town and Country Planning Act 1990](#) as:
- *“the carrying out of development without the required planning permission; or*
- *failing to comply with any condition or limitation subject to which planning permission has been granted.*
- *Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), constitutes a breach of planning control against which enforcement action may be taken.”*

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PLANNING ENFORCEMENT AND EXPEDIENCY

- Taking enforcement action is a discretionary remedy
- Need to consider all relevant material considerations and any demonstrable harm

What are the time limits for taking enforcement action?

In most cases, development becomes immune from enforcement if no action is taken:

within 4 years of substantial completion for a breach of planning control consisting of operational development;

within 4 years for an unauthorised change of use to a single dwellinghouse;

within 10 years for any other breach of planning control (essentially other changes of use).

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PLANNING ENFORCEMENT AND EXPEDIENCY

- Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy.

Government Guidance advises that in deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

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PLANNING ENFORCEMENT SERVICE STANDARDS

- Online proforma to report breaches of planning control
 - Anonymous enquiries or complaints will not be acted upon.
- In dealing with enforcement enquiries, we will protect the confidentiality of anyone reporting unauthorised development.
- In investigating alleged breaches of planning control, we will endeavor investigate all complaints within 7 working days of receipt and notify the complainant of the outcome of the investigation within 28 days or the need to provide additional information.

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PLANNING ENFORCEMENT OPTIONS

- Negotiate a solution
- Submission of a retrospective planning application
- Formal Action (public register of enforcement action)
 - enforcement notices;
 - stop notices;
 - breach of condition notices;
 - planning enforcement orders
- Planning contravention notice

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PLANNING ENFORCEMENT PERFORMANCE

- 200 Cases opened / investigated per annum
- High number of planning enforcement notices served
 - Last Quarter – 15 notices served (including planning contravention notices)
- Performance by Local Planning Authorities monitored by the Government

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TAKE HOME POINTS

- One Team, One Council, One Purpose
- Help set the vision and culture within the planning service, and work with / seek advice from officers
- Represent your constituents, whilst acting in the wider public interest to meet the development needs of the district
 - Acting as a liaison between communities and the council
 - Raising local issues
 - Helping residents to understand what the council is doing
- Focus on material planning considerations
- Know your local plan
- Understand the scheme of delegation and know when to override the scheme of delegation

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Questions



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