DELEGATED COMPLIANCE MATTERS

1 SUMMARY

1.1 The Head of Development Management has delegated powers for dealing with certain planning enforcement and related actions. The scheme of delegation requires that we report such actions to the next available Development Control Committee. This report provides that information.

2 DELEGATED DETERMINATIONS

2.1 As Local Planning Authority, we have discretion to take enforcement action when we consider it expedient to do so. Planning Policy Guidance (PPG18), Enforcing Planning Control, advises that in considering any enforcement action the decisive issue should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. It also states that enforcement action should always be commensurate with the breach of planning control to which it relates.

2.2 In 2005, we adopted the national Enforcement Concordat and our new enforcement policy, which set out how we will deal with breaches of planning control.

3 DELEGATED DETERMINATIONS NOT TO ENFORCE

3.1 Having considered relevant development plan policies and material planning considerations, we have decided that it would not be in the public interest for us to take enforcement action to remedy the following breaches of planning control:

3.2 Reference: E/2007/0157
Location: Prince of India, Crescent Road, Windermere
Breach: Hanging sign and illuminated fascia sign

Advertisement controls are only exercisable in the interest of amenity and public safety, taking account of any material factors.

The hanging sign is small and reflects the style of other business signs in the area. The fascia sign is large and its colour does draw attention, however Crescent Road is a business commercial area so the sign does not appear as an incongruous in its surrounding. Neither sign significantly affects the amenity of the area.

The signs are displayed at fist floor level and do not pose a risk to public safety. No further action is warranted.

4 DELEGATED DETERMINATIONS TO ENFORCE

4.1 In the following cases, our initial attempts to persuade the developer of the land to remedy the harmful effects of unauthorised development failed. In these instances, we considered that it was expedient to initiate formal enforcement proceedings to regularise the breach and the Authority issued and served notices. This section of our report provides an update on these cases.

4.2 Reference: E/2009/0017
Location: Crosthwaite Meadow, Church Lane, Keswick
Breach: Erection of a timber building
This matter was considered by Development Control Committee on 5 August 2009. Members determined to refuse the retrospective application for the agricultural shed for the following reason;

*The shed is harmful to the character and appearance of the area by reason of its isolated and prominent location where it is neither well related to existing development or landscape features and because its size, form and character and materials are not in harmony with the special landscape qualities of the area. In consequence the proposed development would be contrary to Policies NE1 and A1 of the Lake District National Park Local Plan, Policy E37 of the Cumbria and Lake District Joint Structure Plan 2001-2016 and Policy DP7 of the North West of England Plan Regional Spatial Strategy 2021.*

An expediency report, recommending that enforcement action be taken under delegated powers, was signed on 20 August 2009. The enforcement notice was issued on 28 August 2009. The notice requires the timber building to be removed from the field within four months.

4.3 Reference: E/2006/0197  
Location: Overend Cottage, Kentmere  
Breach: Erection of two dormer windows

Overend Cottage is a small stone and slate property at the head of Kentmere. In 2006 an application was submitted to add four dormers to the cottage to create more internal space. Work to the roof commenced before this application was determined. The works did not comply with the plans submitted with the application. This application was refused on design grounds. We gave advice that the dormers would need to be significantly altered before they could be acceptable, but a second application was submitted for the dormers as built. This second application was appealed, but it was dismissed.

A third application was submitted in May 2009 which proposed alterations to the two dormers which were publically visible and the retention of the two dormers on the other side of the cottage. The application was approved at the end of July. As two dormers need to be removed before the permission can be commence we have issued an enforcement notice which requires the two dormers on the east elevation to be removed. This will ensure that either the two approved dormers are built or the roof is returned to its original appearance.

4.4 Reference: E/2008/0031  
Location: Gillthwaite Rigg, Lickbarrow Road, Windermere  
Breach: Use of land and buildings for boat repairs and boat storage

This land has a lawful use as a garden nursery and a landscape gardening contractor's depot. In February 2008 we received a concern about the site being used for boat repairs. After visiting the site it was also clear that the land was being used for boat storage.

Following discussion with the owner a retrospective application for the boat repair business was submitted in July 2008. As part of the application the Environmental Protection team at South Lakeland District Council were consulted. They confirmed they had concerns about the use. The application was then withdrawn. Following further discussion an enforcement notice was issued in January 2009 under delegated powers. The notice required the use of the land for a boat repair business and for boat storage to cease.
An appeal against the notice was submitted and a public inquiry was held on 26 August 2009. The Inspectorate dismissed the appeal and upheld the enforcement notice. The use of the for a boat repair business and for boat storage should cease by 7 November 2009.

5  DELEGATED DETERMINATIONS TO ISSUE PLANNING CONTRAVENTION NOTICE

5.1 In the following case, we have issued and served a planning contravention notice (PCN). The Authority may serve a planning contravention notice where it appears that there may have been a breach of planning control. It requires the owner or occupier of the land to supply information as to a) any operations being carried out on the land and any other activities being carried out on the land; and b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted. A PCN is often used as a prerequisite to the initiation of formal enforcement proceedings.

5.2 Reference:  E/2009/0146
Location: Former Bus Depot, The Slack, Ambleside
Breach: Alleged storage of building materials and equipment

This relates to the use of a parcel of land in the middle of Ambleside by a local building firm for storage of items in association with their business. The PCN reply will supply the information needed for us to determine how long the land has been used in this way and ownership details. We will then be able to confirm whether a material change of use has occurred.

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