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:

Reference: E/2008/0227
Location: Strathmore, Braithwaite, Keswick, CA12 5RY
Breach: Erection of fence

Interwoven panel fencing has been erected. Because of its height and proximity to the highway, it requires planning permission. The fencing is of a similar height and design to other fencing in the vicinity although as it is currently untreated it appears different. Hedging adjacent to the fence is of a similar height. A retrospective planning application for the fencing was not forthcoming but we have received assurances that the fence will be stained green, like the other fencing, when the weather improves. On this basis, the fencing would respect the character of the area and would be acceptable. We reserve the right to consider further action if the fence is not stained in a reasonable period.

Reference: E/2008/0231
Location: Land South East of Scroggs Farm, Hall Lane, Staveley
Breach: Extension to forestry building

A small extension to an existing forestry building required planning permission because of its proximity to the road. A retrospective planning application was requested but not forthcoming. The building is on private land surrounded by trees and cannot be seen from public viewpoints. This extension is not contrary to policy and is considered acceptable.

Reference: E/2008/0239
Location: Young’s Furnishers, Lake Road, Ambleside, LA22 0DB
Breach: Display of temporary banner on scaffolding
The shop fascia sign is partially obscured by scaffold erected over the façade to facilitate maintenance. A temporary banner promoting the business as being ‘open as usual’ is displayed at approximately the same height as the fascia sign behind it. We consider it unreasonable, as it may be of detriment to the business in the circumstances, to require the removal of the banner advertisement at this time. This is on the understanding that it will be removed when the scaffold is no longer required.

Reference: E/2008/0291
Location: Annex, Tudor Close, Newby Bridge
Breach: Erection of porch and installation of dormer window

A porch and a dormer window exceed the conditions and limitations of the General Permitted Development Order because of the size of the annex. The materials used match the existing materials. The porch is small scale and it and the dormer has no significant affect on the overall appearance of the annex or the character of the area as they are largely screened from public viewpoints. We consider this development to be acceptable.

4  DELEGATED DETERMINATIONS TO ENFORCE

4.1 In the following instance, we considered that it was expedient to initiate formal enforcement proceedings to regularise the breach and issued and served an enforcement notice(s) under delegated authority:

Reference: E/2008/0092
Location: Newbiggin House Farm, Waberthwaite, Millom, LA19 5YQ
Breach: Erection of building and use of land for stationing of residential caravan

4.2 A large timber building has been erected on allotment land near this property to provide shelter for a caravan used for residential purposes while the house is being renovated. The operational development and material change of use of the allotment land requires planning permission and constitutes a breach of planning control. A retrospective planning application was not forthcoming. The building and material change in use will become lawful by immunity to enforcement action in 2012.

4.3 The house is being renovated by aid of grants from Copeland Borough Council. It is currently uninhabitable and progress in the renovation has been hampered by the personal circumstances of the owner.

4.4 The building has the appearance of an agricultural building from some public vantage points but its residential use is apparent within the allotment land. The design of the building is not of a high standard.

4.5 The development is contrary to Policy H10 of the Local Plan that states that we will not normally permit the siting of caravans for use as residential accommodation. It is also contrary to Policy NE1 of the Local Plan as it does not respect the character of the area and is not closely integrated with existing uses. Because of the standard of design, we consider it does not respect nor enhance the distinctive character of the landscape. Therefore, it is also contrary to Policy ST3 of the Local Plan. Consequently, we consider both the building and material change of use of the land to be unacceptable in policy terms.
4.6 While we had full regard to the extenuating circumstances of the owner in this case we considered that it was necessary to ensure that the development did not become lawful by immunity to enforcement action and therefore outside of our control.

Having regard to the Human Rights Act, Planning Policy Guidance 18 and the Concordat on Good Enforcement, we considered it expedient to enforce and authorised the service of enforcement notices under the scheme of delegation on the 22 August 2008.

4.7 Subsequently, we worked with the owner who largely accepted the necessity for enforcement action. We also consulted Copeland Borough Council on the length of any compliance period required to ensure the house would be habitable before the end of that period. We were able to agree on a time-scale to allow a reasonable period for the renovation of the house to be completed and the owner re-housed.

4.8 We issued and served enforcement notices on 26 November 2008. They require the demolition of the building and the cessation of use of the land for the stationing of the residential caravan by 7 January 2011. There is, of course, a right of appeal before the notice comes into effect on the 7 January 2009. We are monitoring the situation.

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