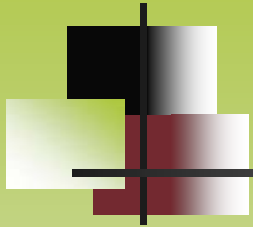


# PLANNING ENFORCEMENT

## AN IMPORTANT ROLE



Waveney District Council  
Serving the Community



# THE ENFORCER



Waveney District Council  
Serving the Community



# WDC ENFORCEMENT TEAM



Waveney District Council  
Serving the Community



# CASELOAD

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2004/5

380 Complaints,

6 notices served, 1 prosecution

2005/6

458 Complaints,

5 notices served, 0 prosecutions

2006/7

464 Complaints

6 notices served, 0 prosecutions



Waveney District Council  
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# BACKGROUND

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The objective of planning enforcement is compliance not punishment, although this is occasionally overlooked by some “enthusiastic” enforcers. A good enforcement officer can resolve many breaches of planning control without the need to serve formal statutory notices through personal contact and face to face persuasion





# SOME BASIC PRINCIPLES

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- The enforcement of Planning Control is a fundamental part of the Planning System
- Main enforcement provisions contained in Parts VII & VIII of the Town & Country Planning Act 1990
- DETR circulars and Planning Policy Guidance Notes (PPG) are equally important





## Para 5 of PPG 18

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Nothing in this note should be taken as condoning a wilful breach of planning law.

LPAs have a general discretion to take enforcement action, when they regard it as expedient.





# Is it Expedient?

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Overriding everything is the question of expediency:

- Where is the harm?
- Where is the need?
- Where is the benefit?





# POWER TO ENFORCE

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There is no legal obligation to enforce

- Town & Country Planning Act 1990 & other Acts and Regulations give Local Planning Authorities the....
- POWER TO ENFORCE
- There is no DUTY to enforce





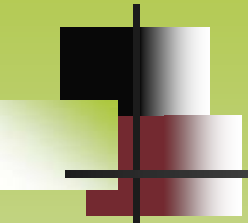
# The General Approach

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However

- LPAs have primary responsibility for taking whatever enforcement action may be necessary in the public interest.
- The Ombudsman may find maladministration if the LPA fails to take effective enforcement action which was plainly necessary





# What to consider

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- Would the breach of control unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest?
- Would enforcement action be commensurate with the breach of planning control to which it relates?
- Negotiations to voluntarily remedy the harmful effects of unauthorised development should not be allowed to hamper or delay formal enforcement action that may be required to make the development acceptable on planning grounds





# TIME LIMITS

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There are specific time limits for taking enforcement

- Operational development – 4 years
- Use of land – 10 years



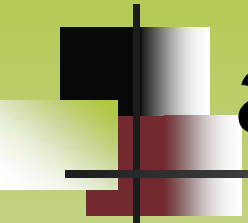


# Appeals Against Enforcement

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- Enforcement action should not be taken if the development is or could be made acceptable.
- A valid reason to appeal against an enforcement notice is that planning permission ought to be granted for the development.
- The LPA may be liable to a compensation claim if such an appeal is successful





# Is a breach of planning control an offence?

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Some such as the following are:

- Listed Buildings
- Advertisements
- Protected trees

But most are not:

- Building or engineering operations without permission
- Development not according with terms and conditions of approval





# Some Notable Cases

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- Section 215 Untidy Land

Failed to respond to requests to tidy land

Failed to comply with formal Notice

Guilty plea at Magistrates Court

£250 fine and £100 costs

Informed further offence if not tidied





# Some Notable Cases

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- Untidy Building – Absentee Owner  
Initial work direct action to board up  
and secure  
Ultimately compulsory purchased  
following a tribunal





# Some Notable Cases

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- Breach of condition

£425 fine + £75 costs

£770 fine + costs

County Court Injunction granted

Injunction breached resulting in 21 day  
prison sentence suspended 12 months  
and £700 costs





# SUMMARY - PPG18

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Remember –

- Even if a breach is confirmed it is rarely dealt with by way of a formal enforcement action.
- There are a number of alternatives which should be considered first
- LPAs must show why it is considered expedient to take formal action.



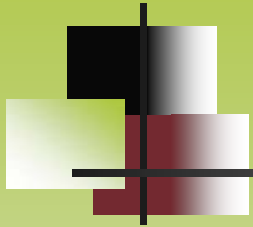


# Summary

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- Is there development?
- Is there a breach?
- Is the breach causing harm?
- Is enforcement expedient?





ANY QUESTIONS



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