

PLANNING ENFORCEMENT REPORT

September – December 2010

Introduction

1. This report summarises the level of enforcement activity undertaken within South Kesteven District Council for the period September to December 2010. The purpose of this report is to provide Members with a report on progress of the Planning Enforcement Service for the period highlighted.

Update

2. The Scheme of Delegation has been amended and the Head of Development and Growth has authorised the issuing of Planning Contravention Notices and Requisition for Information Notices to the Planning Enforcement Officers. These are first stage notices for information and commence enforcement action by the District Council on a formal basis.

Staffing Issues

3. The two Planning Enforcement Officers still continue to operate the area in conjunction with the north and south sub divide of the district. I can confirm since the last reporting period the Section 106 Monitoring post has been made permanent and the current post holder has accepted the terms of the post outline.

Assessing the need for enforcement action or prosecution

4. It was highlighted in the previous report that a six monthly enforcement report would now be undertaken on a regular basis to keep Members updated on current enforcement issues/cases. As part of the enforcement processes it is opined that Members have some perception of the processes and criteria set out in the reasoning and outcomes of enforcement issues. In deciding whether enforcement action or prosecution is expedient the Council will take the following steps:-
 - 4.1. Establish the facts – to find out what is happening on a site or in a building, who the owner/occupier is and the relevant planning history of the site.
 - 4.2. In doing this we may do any or all of the following:-
 - 4.2.1. Visit the site. This will usually be unannounced and photographs may be taken. Officers have powers to enter land under Section 196A, 196B and 196C of the Town and Country Planning Act 1990.
 - 4.2.2. Interview the developer, owner and/or occupier. Obtain information about the alleged breach of planning control and to give information about the enforcement process and options available.
 - 4.2.3. Occasionally, in serious cases in which a criminal offence may have been committed, it is likely that an interview under caution will be carried out, as required by the Police and Criminal Evidence Act 1984.

- 4.2.4. Issue of a Requisition for Information/Planning Contravention Notice or other statutory request for information.
 - 4.2.5. Check the Council's files for planning permission, planning conditions or other correspondence which may be relevant to the alleged breach of planning control.
 - 4.2.6. Make other enquiries with other statutory bodies and enforcement agencies to co-ordinate action.
- 4.3. Analyse the information gathered – we will discuss our findings with Planning Officers, Historic Building Officer and other professionals as appropriate and establish the degree of harm the matter is creating.
- 4.4. Decide which of the following categories the breach of control falls into:-
- 4.4.1. Development or unauthorised works that require enforcement action or prosecution (in appropriate cases) to be commenced immediately.
 - 4.4.2. Development or work that requires permission or consent and there is a reasonable chance that permission or consent will be granted.
 - 4.4.3. Development or works judged to be of a type or degree that it would not be expedient to take enforcement action.
 - 4.4.4. Development that is permitted development and therefore does not require planning permission.
 - 4.4.5. Development that is exempt from enforcement action due to the passage of time and is considered lawful.
 - 4.4.6. Development that does not constitute a breach of planning control.

Enforcement Report

- 5. Since the last report there has been a further 100 complaints registered as of 31 December 2010. The overall complaints received in 2010 in total are 262. Of those cases 135 have been closed based on a conclusion of e.g. no breach, planning application submitted, not expedient and time barred.
- 6. There have been no enforcement notices served since the last reporting period. There has been 1 enforcement appeal that has been determined. Currently no Breach of Condition Notice, Listed Building Enforcement Notice or Section 215 Notice has been served during this reporting period.

Enforcement Performance Figures September/December 2010

Cases Opened	100
Cases Closed	80

ACTIONS	
Enforcement Notices	Nil
Beach of Condition Notices	Nil
S215 Notices	Nil
Listed Building Enforcement Notice	Nil
Temporary Stop Notice	Nil
Stop Notice	Nil
Prosecutions (Notice non-compliance)	Nil
Prosecutions (Adverts)	Nil
PCN/S330/S16 Notice	8

APPEALS	
Enforcement Appeal Lodged	Nil
Enforcement Appeal Dismissed	1
Enforcement Appeal Allowed	Nil
Enforcement Appeal Withdrawn	Nil

Enforcement Action

1. **Greytrex House, Tinwell Road Lane, Stamford** – Planning Inspectorate awarded partial costs to council. Appellant is unwilling to accept council's break down of costs. Order of the court being pursued by legal.
2. **Grange Farm, Hougham** – Enforcement Notice served in connection with unauthorised use of land (car boot sales). Enforcement monitoring.
3. **Land adj Hards Lane, Frognall** – further buildings erected on land. Pursue enforcement action with further enforcement notice.
4. **Mama Liz's Soul Shack, 9A North Street, Stamford** – Public Inquiry 2 November 2010. Permitted use as restaurant with ancillary bar facilities. Currently establishment being used as a mixed use - restaurant and live music venue. Appeal dismissed and appellants have 30 days to comply with enforcement notice.
5. **Land adj Fallows End, Stragglethorpe Lane, Fulbeck Lowfields** – Public Inquiry regarding planning application refusal scheduled for 16 February 2011. Liaised with legal and appropriate documents for Injunctive proceedings have been presented to Counsel. Legal still collating further information regarding prosecution of the enforcement notice.
6. **Black Bull, Lobthorpe** – non compliance with enforcement notice regarding unauthorised alterations to listed building. Documents with legal for prosecution.
7. **Café Black, Stamford** – still undetermined planning application for the canopy. Acting Lead Professional pursuing matter. Will be presented before Development Control Committee 1 February 2011.

8. **New Fox Service Station, South Witham** – awaiting legal to serve enforcement notice regarding use of land for sale of motor homes.
9. **Tallington Lakes, Tallington** – a number of complex matters have been encountered at the caravan park. Legal seeking Counsel's advice on a number of issues at the site e.g. occupation/ownership of caravans, planning unit, Planning Contravention Notice responses and planning history.
10. **38 Chapel Street, Haconby** – awaiting legal to serve enforcement notice regarding extension of garden onto agricultural land.
11. **14 Berkley Drive, Bourne** – prosecution for non-return of Requisition for Information Notice prior to serving enforcement Notice regarding unauthorised fence.
12. **Land off Dykes Drove, Dyke** – unauthorised use of caravan and unit for residential purposes also erection of workshop building and storage of vehicles. Section 330, Requisition for Information notices served awaiting responses.

Section 106 Monitoring Officer

Following the Draft internal Audit Report by RSM Tenon dated July 2010, which Members have already seen in the last Enforcement Report, the following recommendations were made by the Auditors:-

1. A formal periodic S106 Group meeting should be established between key officers involved in the process including Planning, Legal, Finance and the S106 Officer.

Monthly meetings have been arranged for the third Thursday of every month. 3 meetings have taken place since the last Enforcement Report.

2. Periodic management reports showing a breakdown of expected S106 income against actual income received.

This will be available when the new S106 monitoring database in APAS is up and running. Mark Williets authorized purchase of the APAS module in November 2010. Awaiting IT to purchase software package.

3. Obligations should not be highlighted as complete on the monitoring spreadsheet until evidence is received documenting that obligations/contributions have been completed by the Developer;

Adopted as per Auditors recommendation.

4. A policy should be approved covering the Council's current approach;

A Supplementary Planning Document has been prepared by Andy Moger of Planning Policy which is currently under consultation. Responses due by 20 December 2010.

5. Documented procedural guidance should be collated covering the day to day responsibilities of the Monitoring Officer, including maintenance of the agreement register and monitoring /chasing S106 agreement obligations.

This has been prepared by the Monitoring Officer and given to Paul Green/Cliff Middleton (acting Lead Professionals) for approval.

S106 MONIES RECEIVED SINCE 14.09.10

S106 Ref No	Planning App Ref	Site Location	Amount	Received
(98)	S08/1026	Land at Kempton Way, Off Dysart Road, Grantham (TR)	£10,000.00	29.10.10
(22)	S02/1169	Land off Springfield Road, Grantham (£75,000.00 - EDU - 50%) (£22,500.00 - PE - 50%)	£97,500.00	29.11.10
(41)	S04/1895	Land at Dysart Farm, Long Bennington (EDU)	£72,447.00	06.12.10

Key: PE = Play Equipment; GAM = Green Area Maintenance; AH = Affordable Housing; EDU = Education;
AOS = Adoption of Open Space; PCT – Primary Care Trust; ART = Public Art; TR = Highways;
TCE = Town Centre Enhancement

TOTAL RECEIVED BY SKDC (Since last Report) £169,947.00

TOTAL RECEIVED BY SKDC (from 1 April 2010 to date) £626,365.50

MONIES PAID DIRECT LCC

TOTAL PAID DIRECT TO LCC (from 1 April 2010 to date) £105,800.00

Recommendation

It is recommended that the Committee note the content of the report.