

HYTHE AND DIBDEN PARISH COUNCIL

The Grove, 25 St. John's Street, Hythe, Hampshire SO45 6BZ

Serving the communities of Dibden, Dibden Purlieu and Hythe

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To: Members of the Council

Mr J Binns

Mr R. Guy

Mr G Parkes

Mrs M Robinson

Mr M Short

Chairman

ex officio

Vice Chairman

Mrs B Smith ex officio

Mr D Smith

Mr A Wade

Mr M Wade

AGPLN418

6 March 2013

Members of the Planning Committee

are hereby summoned to attend the Planning Committee to be held in The Grove, St. John's Street, Hythe on Wednesday next, 13 March 2013, commencing at 6.45 pm.

Yours faithfully

Clerk to the Council

AGENDA

1. Apologies for absence.
2. To note any declarations of interest made by Members in connection with an Agenda item. The nature of the interest must also be specified.
3. Public Participation Period.
4. Notification of any other urgent business to be raised at the end of the meeting.
5. To sign the minutes of the meeting held on 13 February 2013
6. Planning lists: -
 - a) New Forest District Council received up to 7 March 2013
 - b) New Forest National Park received up to 7 March 2013
7. New Forest National Park Authority - Draft Local Enforcement Plan.
8. Any other urgent business concerning the Committee.

HYTHE AND DIBDEN PARISH COUNCIL

PLANNING COMMITTEE

AGENDA NOTES FOR 13 MARCH 2013

Item 7 New Forest National Park Authority – Draft Local Enforcement Plan

A copy of the above is attached; the covering letter suggested that there will be a specific response form to respond with however at the time of publishing the agenda for this meeting the document was not available. Should Members choose to comment it should be possible to adapt the responses to suit the required format.

Member's views are requested.

Planning Applications to be Considered on 13.03.13

1 13/10116

18/02/13

Applicant - Mr Christopher Morgan

Proposal - Use of garage as ancillary living accommodation

Site - 4 Ranfurly Gardens, Dibden Purlieu, SO45 4NX

2 13/10118

31/01/13

Applicant - Mr & Mrs Adam Whiteaway

Proposal - Single-storey rear extension

Site - 2 Merriemeade Close, Dibden Purlieu, SO45 4PZ

3 13/10153

07/02/13

Applicant - Mr & Mrs Minihan

Proposal - Roof alterations to form first and first floor rear extension

Site - The Lilacs, Noads Way, Dibden Purlieu, SO45 4PD

4 13/10155

07/02/13

Applicant - Mr David Kelsey

Proposal - Two-storey side extension (Lawful Development Certificate that permission is not required for proposal)

Site - Autumn Lodge, North Road, Dibden Purlieu, SO45 4RF

5 13/10162

11/02/13

Applicant - Mrs H Choudhury

Proposal - Variation of condition 2 of planning permission 11/97399 to allow revised acoustic details

Site - Collier Building, Beaulieu Road, Dibden Purlieu, SO45 4PX

6 13/10180

15/02/13

Applicant - Mr & Mrs Holland

Proposal - Two-storey side and rear extension

Site - 99 Rosebery Avenue, Hythe, SO45 3GY

7 13/10208

21/02/13

Applicant - Mr & Mrs Parratt

Proposal - Single-storey rear extension

Site - 15 Harley Close, Dibden Purlieu, SO45 4LU

Members are asked to consider the recommended responses to the following tree applications:-

8 TPO/13/0102

13/02/13

Site - 48 Kensington Fields, Dibden Purlieu, SO45 5RX

Proposal - Beech Tree - remove deadwood

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

9 TPO/13/0114

18/02/13

Site - 23 Mountfield, Hythe, SO45 5AQ

Proposal - T1 - Oak - Crown reduce and reshape, 1 - 1.5 metres and minimise wound wood area to 55mm

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

10 TPO/13/0117

19/02/13

Proposal - Monterey Pine - Remove the lowest two over extended limbs to the south (towards properties)

Site - Langmoor, Noads Way, Dibden Purlieu, SO45 4PB

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

11 TPO/13/0129

25/02/13

Site - 24 Asheligh Close, Hythe, SO45 3QP

Proposal - Silver Birch - (disc number 0113) - Reduce by 25% and remove rotten branches

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

12 TPO/13/0130

25/02/13

Site - Redcot, 22 Lower Mullins Lane, Hythe, SO45 5AF

Proposal - Oak - Crown reduce by 30%

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

13 TPO/13/0136

26/02/13

Site - 14 New Road and boundary with St. John's Hall, New Road, Hythe, SO45 6BP

Proposal - T2 - Scots Pine - Reduce branches by 3-4 metres. T3 - Monterey Pine - Reduce branches by 3-4 metres

The Parish Council will accept the advice of New Forest National Park Authority's arboriculturist.

Planning Application Decisions made up to 06.03.13

1 12/99296 26/10/12

Applicant - Mr Bundock

Proposal - Detached outbuilding

Site - 17 Peartree Road, Dibden Purlieu SO45 4AN

Decision 06/03/13
Granted Subject to Conditions

2 12/99415 22/11/12

Applicant - Mr Yonoff

Proposal - Alterations to first and second floor to create 5 guest rooms; use of ground floor as conference room; create additional guest room at ground floor level; roof alterations to include 3 dormers; replace rooflights; balcony to south elevation; bin store alterations

Site - 35-36 Shamrock Way, Hythe Marina Village Hythe SO45 6DY

Decision 06/03/13
Granted Subject to Conditions

3 12/99460 10/01/13

Applicant - Mrs Greta Wall

Proposal - Single-storey rear extension (Lawful Development Certificate that permission is not required for proposal)

Site - 1 Lawnswood Close, Dibden Purlieu SO45 4AX

Decision 06/03/13
Was Not Lawful

4 12/99474 22/11/12

Applicant - Mr Ryan and Ms Cooper

Proposal - One and two storey rear extensions

Site - Oakwood Cottage, 34 Oak Road, Dibden Purlieu SO45 4PL

Decision 06/03/13
Granted Subject to Conditions

5 12/99501

19/12/12

Applicant - Everything Everywhere Ltd

Proposal - 1 Telecommunications dish; 3 cabinets

Site - Land of Home Farm, Southampton Road, Hythe SO45 5ED

Decision 06/03/13

Granted Subject to Conditions

6 12/99546

17/12/12

Applicant - Ms Horn

Proposal - 1.80 metre boundary fence and gates

Site - 95 Cedar Road, Hythe SO45 3PX

Decision 06/03/13

Granted Subject to Conditions

7 12/99557

25/01/13

Applicant - Mr M Palmer

Proposal - Two-storey side extension; single-storey side extension; detached garage with solar panels.

Site - 9 Alexandra Road, Hythe, SO45 6BA.

Decision 06/03/13

Withdrawn by Applicant

8 12/99578

22/01/13

Applicant - Mrs Eaves

Proposal - Use of unit as pilates studio (Lawful Development Certificate that permission is not required for proposal)

Site - Unit 17, South Street Centre, 16-20 South Street, Hythe, SO45 6EB

Decision 06/03/13

Was Not Lawful

New Forest National Park Authority

Draft Local Enforcement Plan

1. Introduction

- 1.1 This Plan sets out the Authority's policy and procedures for enforcing planning control in the New Forest National Park. It is a guide for those affected by breaches of planning control who may wish to know what steps the Authority can take and the timescale involved in achieving a result.
- 1.2 The Authority recognises the importance of an effective planning enforcement service within the National Park and has a dedicated Enforcement Team which is responsible for investigating reported breaches of planning control and for monitoring new developments.
- 1.3 Relevant Government Guidance is found in the National Planning Policy Framework (NPPF) which came into effect in March 2012. With regard to Planning Enforcement, the relevant section of the NPPF is found in paragraph 207:

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so".

2. Relevant legislation

- 2.1 The Town and Country Planning Act 1990 (as amended) underpins the planning process and provides almost all of the enforcement powers at a local authority's disposal. With regard to formal action Section 172 of the Act specifies that:

"The local planning authority may issue a Notice...where it appears to them:

- a) that there has been a breach of planning control; and*
 - b) that it is expedient to issue the Notice, having regard to the provisions of the development plan and to any other material considerations".*
- 2.2 The Act also enables people who have carried out unauthorised development to apply for 'retrospective planning permission' in an attempt to regularise matters. In dealing with such applications, the Authority must consider them in exactly the same way as any other application, i.e. the fact that the development has already been carried out is not something that can be taken into account in the determination of the application.

3. Guiding principles of planning enforcement

Expediency

- 3.1 Planning enforcement remains a discretionary power. In deciding whether it is appropriate to take enforcement action the degree of harm the unauthorised development is causing, or is likely to cause, will be carefully considered.

Harm can arise through a range or combination of factors:

- Adverse impact on visual amenity due to poor design or inappropriate materials;
- Inappropriate and conspicuous development within the landscape;
- Failure to comply with a condition of a planning permission leading to an adverse impact;
- Danger and disturbance due to significantly increased traffic flows;
- Loss of privacy or overshadowing and loss of natural light;
- Loss of protected trees or loss or damage to protected buildings (Listed Buildings) and demolition of buildings in a Conservation Area;
- Development that undermines the purpose and credibility of adopted national and local planning policies;
- Untidy land and run down or derelict buildings that present a very poor quality environment and/or prejudice community safety.

- 3.2 Harm (for planning purposes) however does not include:

- Competition caused to another business;
- Loss of an individual's view or trespass onto their land (including ownership disputes);
- Loss of value to a property.

Proportionality

- 3.3 Enforcement action should always be proportionate to the seriousness of the harm being caused. It should not be taken solely to "regularise" development which is otherwise acceptable on its planning merits but for which planning permission has not been sought.

Consistency

- 3.4 We will take a similar approach to similar circumstances in order to achieve similar outcomes. It does not imply uniformity; rather a full and proper consideration of all the circumstances of a case, guided by our adopted Core Strategy to establish what reasonable and adequate requirements there are to remedy the breach. We will achieve this by:

- Following advice contained within Government guidance on legal procedures, planning policy and good practice;
- Adhering to the planning policies within our adopted Core Strategy and Supplementary Planning Documents;
- Keeping up to date with Government Circulars, Case Law and Court Judgements/Authorities.

Negotiation

3.5 In all but the most serious cases, we will seek to negotiate compliance rather than pursue formal enforcement action, providing that an appropriate resolution can be achieved in a timely manner. The negotiations aim to achieve one or more of the following outcomes with the owner:

- To undertake work to comply with the planning permission granted;
- To apply for planning permission for the works undertaken or a variation to the works that are more likely to secure permission (within the timescales as shown in our procedures flow-diagram in paragraph 7.2);
- To remove an unauthorised development;
- To cease an unauthorised use.

3.6 However, negotiations will not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable in planning terms, or to compel it to stop.

4. Enforcing Planning Control in the New Forest National Park

4.1 The New Forest is a protected landscape and a special environment of national importance. We will not allow unauthorised development to detract from the special qualities of the New Forest and cases will be prioritised according to the degree of harm caused.

Priority	Examples (not exhaustive)
Urgent: site visit within 24 hours.	This would be for a development causing serious threat to public health and safety, or permanent, serious damage to the environment.
High priority: site visit within five working days.	This is less urgent but considered harmful with the potential to get worse.
Standard priority: site visit within 20 working days.	This covers the majority of cases, where there is a possible breach but this is unlikely to get worse.
Low priority: site visit when workloads and resources allow (aim within 20 days).	This would be for less serious or immediate cases, such as satellite dishes, adverts, sheds, walls and fences.

4.2 We deal with complaints concerning unauthorised development and changes of use. We will investigate anonymous complaints providing they are not considered to be malicious. Breaches of planning control can include:

- Building works carried out without permission (if permission is needed);
- Planning conditions not being adhered to;

- The change of use of a building or site without planning permission (if permission is needed);
 - The display of advertisements without consent (where they do not benefit from deemed or express consent);
 - The demolition of walls and buildings in Conservation Areas without consent;
 - Trees and hedges that are protected by Tree Preservation Orders (TPO's) which are cut back or cut down. We are responsible for the entire New Forest District when it comes to monitoring and enforcing complaints concerning unauthorised works to trees.
- 4.3 If we receive a complaint that is not a planning matter (such as car sales on highway land or noise and odour abatement issues) we will either pass the details on to the appropriate authority or advise the complainant who to contact.
- 4.4 We also provide a monitoring function to ensure that the conditions applied to planning permissions are adhered to. Furthermore, site visits will also be undertaken to ensure that developments are taking place in accordance with the approved plans.
- 4.5 In most cases of unauthorised developments and changes of use, a criminal offence has not been committed until formal enforcement action has been taken and the person concerned has failed to comply with the requirements that have been set. However, in the case of advertisements, trees, Conservation Area and Listed Buildings, unauthorised works do constitute an immediate criminal offence which we could pursue through the Magistrates' Court if considered expedient to do so.

Minerals and Waste Sites

- 4.6 We are also responsible for monitoring minerals and waste sites. Monitoring of permitted sites is an essential tool for controlling development and preventing problems from escalating. It is this proactive approach that enables us to anticipate likely breaches of planning control before they occur. A proactive approach can however only be pursued within a structured monitoring regime.
- 4.7 On 6 April 2006 The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006 came into force. This amendment enables local authorities to charge operators, where sites have planning permissions for mineral extraction and/or waste landfill, for the reimbursement of the average costs of providing the monitoring service. We will therefore charge for our monitoring service in accordance with these regulations.

Common breaches of planning control in the New Forest

- 4.8 In an average year, the Authority will be asked to investigate some 400 reported cases alleging a breach of planning control. There are a particularly high number of incidences concerning the unauthorised residential occupation of mobile homes (and touring caravans). This trend has continued with a high

proportion of the Enforcement Team's time and resources being spent on resolving these types of issues. To combat this ongoing problem, we will aim to resolve the issue of unauthorised mobile homes quickly owing to the harm that can arise. In cases where mobile homes and caravans have been stationed on land without planning permission we will proceed to serve an Enforcement Notice unless there is considered to be justification for its retention. If this is considered to be the case, an opportunity will be provided for the submission of a planning application.

- 4.9 The conversion of incidental or ancillary outbuildings within residential curtilages to independent units of accommodation are also increasingly of concern and warrant a similar approach.
- 4.10 In any case where an Enforcement Notice has not been complied with, we will proceed to seek either a prosecution in the Magistrates' Court or, if the breach is considered to be flagrant, injunctive action at the High Court. It is necessary to adopt such an approach in the interests of protecting the special qualities of the New Forest and the amenities of local residents. There has been some notable success in pursuing these matters through the Court and we consider such action to be both appropriate and in the public interest. We will proceed with such action even if further planning applications or appeals are lodged.
- 4.11 We also investigate a large number of cases relating to unauthorised signage. All local planning authorities have powers to remove or obliterate unauthorised signage and prosecute those who display signs without the benefit of deemed or express consent. We therefore intend to rely on these powers to control unauthorised signage in the interests of public amenity and highway safety.

5. How to report a breach of Planning Control

- 5.1 All suspected breaches of planning control should be reported to the Enforcement Team. We rely upon the help of the public to bring breaches to our attention and provide us with evidence as to when the breach started. The details of the complainant will remain confidential.
- 5.2 Suspected breaches of planning control can be reported by telephone, email or in writing to the following address:

The Enforcement Team
New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

Phone: 01590 646626

Fax: 01590 646666

Email: enforcement@newforestnpa.gov.uk

5.3 The Authority can only use its enforcement powers effectively if there is sufficient evidence available to demonstrate clearly that a breach of planning control has occurred. In reporting a suspected breach, it is therefore very important to provide as much detail as possible including the exact nature of the alleged breach, when it first started (or was first observed) and the harmful impact the development or use is having. Furthermore, the complainant should consider whether they are prepared to provide evidence at a Public Inquiry or in Court to help support and sustain any action that we may take. We will keep a complainant updated as to the progress of an investigation at appropriate stages.

6. Why can enforcement action take so long?

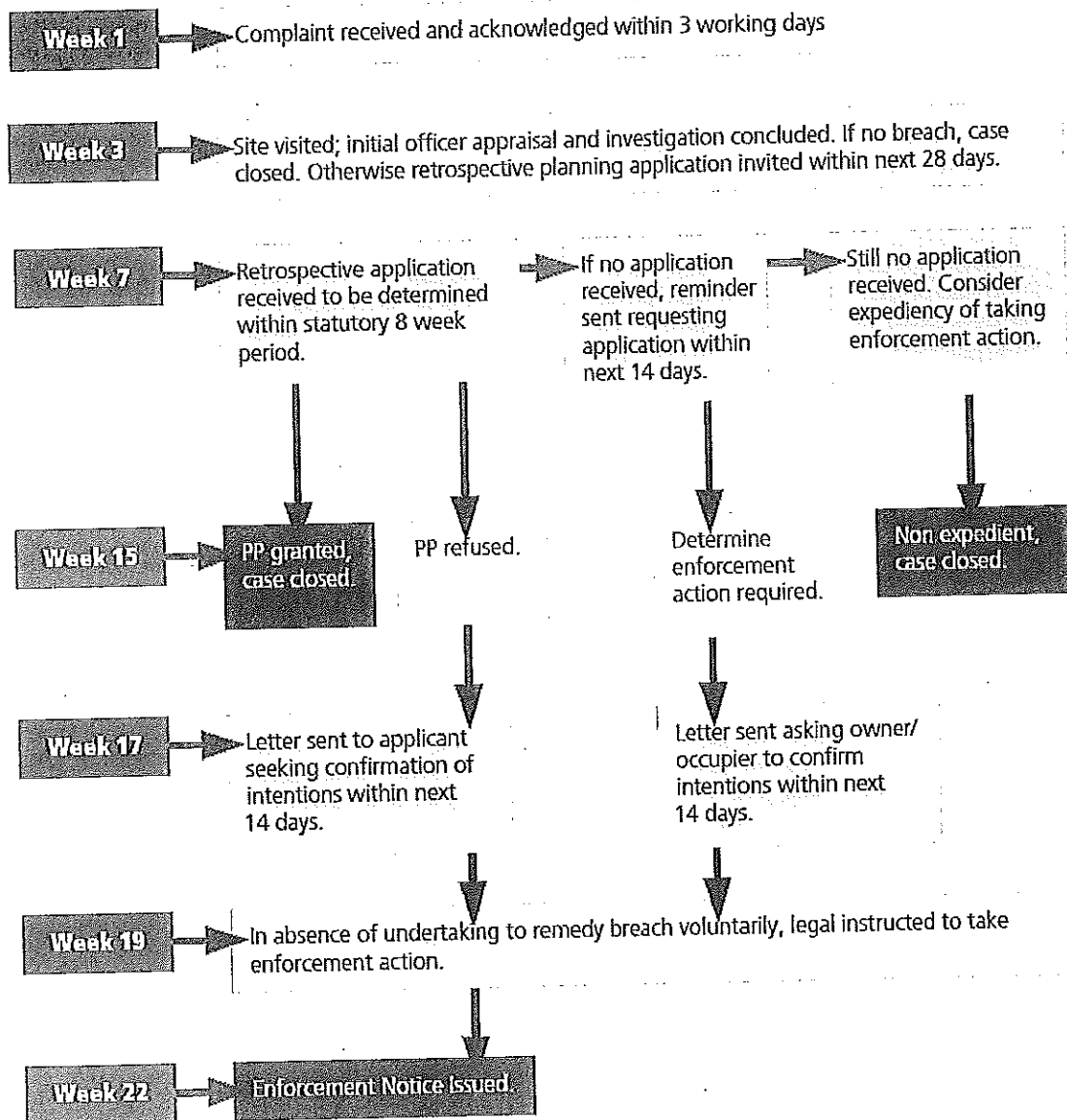
6.1 It is acknowledged that it can be frustrating that despite contacting us the activity which is causing concern still persists. Some of the factors which can result in perceived slow progress include:

- the gathering of satisfactory and robust evidence in order to take action;
- continuing negotiation to try to resolve the matter with the owner;
- consideration of a retrospective planning application seeking to remedy the breach; and
- awaiting the determination of an appeal against formal Notices.

7. Procedures

7.1 The following flow-diagram represents our standard approach to handling and investigating an alleged breach of planning control. However, each investigation will evolve depending upon the severity of the breach, its scale and the degree of harm (see also the table at paragraph 4.1). We will therefore make specific requests for information or the submission of a planning application within a certain timeframe. When requests are made, we will not enter into protracted or cyclical correspondence in the interests of focussing our resources on resolving the matter. The following flow-diagram is therefore based on a generic case and is intended to give an indication as opposed to a steadfast approach in every instance.

7.2 When planning permission has been granted for a revised development (i.e. because an alternative has been negotiated) we will normally expect active steps to have been taken by the owner to implement the permission within 28 days of the date of consent to bring about a final cessation of the breach of planning control.



8. Concealment

- 8.1 The Localism Act (2011) brought into effect concealment provisions on 6 April 2012. These provisions allow the Authority to apply to the Magistrates' Court for a 'Planning Enforcement Order' in cases where it is considered the breach has been concealed and would otherwise have become immune from enforcement action. In cases where we consider that a breach of planning control has been concealed, and it is considered expedient to do so in light of the policies of the Core Strategy, we will proceed to apply for a Planning Enforcement Order following which an Enforcement Notice will be served.

9. Enforcement Powers

9.1 Listed below is a brief description of the various enforcement powers available to the Authority. This is not intended to set out in full all the detailed legal considerations, but simply to try to explain the general nature of the available enforcement powers. In all cases, the Authority will seek to use the most effective power available to remedy a breach of planning control.

- Enforcement Notices can be served on unauthorised development and uses where the development can be remedied by alteration, complete demolition or the ceasing of the unauthorised use. For these Notices there is a right of appeal to the Planning Inspectorate.
- Listed Building Notices are served where unauthorised works to Listed Buildings have taken place and requirements are made to remove those works or improve upon their impact. For these Notices there is a right of appeal to the Planning Inspectorate.
- Breach of Condition Notices are served to require compliance with a condition attached to a planning permission. These Notices are suitable for specific breaches of planning control that need to be corrected within a specified deadline. There is no right of appeal for these Notices. Should the Notice not be complied with we will consider prosecuting the offender in the Magistrates' Court.
- Stop Notices would normally be served in cases where the unauthorised development or use is considered to be so harmful that the outcome of the enforcement process could not be waited for. These will be served together with an Enforcement Notice. There is no right of appeal for these Notices. Should the Notice not be complied with we will consider prosecuting the offender in the Magistrates' Court.
- Temporary Stop Notices are served where a harmful unauthorised development or use has occurred and needs to be stopped immediately (for up to 28 days). This allows time for negotiation between us and offending parties. There is no right of appeal for these Notices. Should the Notice not be complied with we will consider prosecuting the offender in the Magistrates' Court.
- Section 215 Notices can be served on any interested party where land or buildings have become untidy and are considered by us to adversely affect the amenity of the area. There is a right of appeal to the Magistrates' Court for this Notice. Should the Notice not be complied with we will consider prosecuting the offender in the Magistrates' Court.
- Planning Contravention Notices can be served on any known interested party where it is suspected that a breach of planning control has occurred. They contain a number of relevant questions relating to the alleged breach of planning control. Failure to respond within a specified timescale is a criminal offence which can result in a prosecution in the Magistrates' Court.

- Section 330 Notices require information from any occupier of land asking what his interest is in it. Failure to respond within a specified timescale is a criminal offence which can result in a prosecution in the Magistrates' Court.
- Section 225 Notices enable us to issue Notices on any interested parties against unauthorised advertisement displays on buildings and on other surfaces. Subject to these provisions, we will invoice the recipient of any such action in order to recover the costs that have been reasonably incurred in taking the action.

10. What happens after a Notice is served?

10.1 The recipient of a Notice will either:

- Comply with the Notice (in which case the matter is then closed); or
- Contest the Notice by way of an Appeal to the Planning Inspectorate or challenge in a Court of Law - where this is appropriate.

10.2 Hearing a case on appeal will take time and can often delay proceedings particularly if a Public Inquiry has to be arranged. If the appeal against the Notice does not succeed the formal Notice comes into effect. If the appeal is successful and/or planning permission is granted, then this is normally the end of the matter. If the Notice is upheld or there is no appeal but it is still not complied with, we will then take steps to prosecute the offender in Court.

11. Court and Direct Action

11.1 Prosecutions will be undertaken by us in incidences such as unauthorised works to Listed Buildings and protected trees, demolition in Conservation Areas, the display of advertisements and the failure to comply with the other Notices listed in this Plan.

11.2 Injunctive Action is used where a breach of planning control is severe, or there is a threat of it becoming severe, and which can be halted by the successful application to the High Court (or County Court) for an Injunction. It will also be used in longstanding cases where the offender has failed to comply with an Enforcement Notice and the harm is ongoing and now needs to be brought to an end. We will always look to recover our costs from the offender when placed in the position of taking such action even if this results in placing a charge on the land to aid future recovery.

11.3 Direct Action will be used so we can ensure remedial works are undertaken to secure satisfactory compliance with an Enforcement Notice. In cases such as this it may also be necessary to apply for an Injunction to prohibit the offender from entering the land during the period when direct action is taken. We will always look to recover our costs from the offender when placed in the position of taking such action even if this results in placing a charge on the land to aid future recovery.

12. Complaints about our Service

- 12.1 Complaints relating to the service will be acknowledged within three working days. The complaint will be investigated and the complainant will receive a written response within 20 working days of receipt of the complaint.

In the first instance, all complaints should be addressed to:

Paul Hocking
Enforcement Manager
New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

- 12.2 If a complainant remains dissatisfied with the written response then details will be supplied for pursuing the complaint further through our Complaints Officer in accordance with the Authority's formal corporate complaints procedure. We will always strive to resolve a complaint locally but if this is not possible, the complainant will be advised on how to pursue the matter further with the Commissioner for Local Administration (the Ombudsman).

Other useful Documents

National Planning Policy Framework (2012)
New Forest National Park Authority Core Strategy (2010)
New Forest National Park Authority Supplementary Planning Documents
New Forest National Park Authority Conservation Area Character Appraisals
New Forest National Park Authority website
Planning Portal Website