

REPORT OF THE HEAD OF DEVELOPMENT MANAGEMENT

SUBJECT: RESPONSE TO THE DRAFT PLANNING ENFORCEMENT AND COMPLIANCE POLICY

Purpose of Report: The purpose of this report is to advise Members of the response received on the above consultation and to ask Members to adopt the policy for development management purposes subject to the Officer recommended changes set out in Appendix C.

Background: The policy was approved for public consultation by the National Park Authority on The consultation began on 2nd February 2011 and ended on 27th March 2011 at 5pm.

An estimated 1,800 letters were sent to various consultees. These included Agents, Architects, Town and Community Councils within the Park, Housing Associations, Estate Agents, Developers, Local Community Groups, local AM's and MP's, County Councillors, Utilities, Chambers of Trade, Environmental Groups, Government agencies, and other people who had expressed an interest.

Letters and CD copies of the consultation documents were provided to libraries within Pembrokeshire, St Clears and Cardigan. They were also available at the National Park centres in Newport, St David's and Tenby in this format. Paper copies of the documents were available to view at the National Park Offices in Llanion Park, Pembroke Dock.

The consultation was advertised via the Authority's web site and via a public notice within the Western Telegraph which appeared in the 2nd February 2011 edition along with a press release.

A total of 6 individuals and organisations responded. 6 individual comments were made.

Main issues: The main issues raised by the consultation are set out in Appendix A. Appendix B provides a detailed printout of the representations made and Officer recommended responses. Appendix C shows all the resultant proposed changes to the Planning Enforcement and Compliance Policy in italics. It is also intended to provide paragraph numbers for ease of use.

Recommendation

That the Planning Enforcement and Compliance Policy of the Authority be adopted for development management purposes subject to the amendments set out in Appendices B and C:

Background Documents

Pembrokeshire Coast National Park Local Development Plan Adopted September 2010

Draft Planning Enforcement & Compliance Policy

Planning Policy Wales Edition 4 February 2011

Responses to the Planning Enforcement and Compliance Policy consultation

(For further information, please contact Vicki Hirst on ext 4868)

Appendix A: Planning Enforcement & Compliance Policy Main Issues and Proposed Response

1. This report provides a summary of comments made and an officer response. The consultation process resulted in one very detailed letter from the Bettws Newydd Opposition Group and which raised a number of issues to do with more general matters relating to procedures and process and which have been addressed in the report by the Authority's monitoring officer which was considered at the National Park Authority meeting on 11th May 2011.

- 1.2 In summary the main issues raised with specific regard to the Planning Enforcement and Compliance Policy were:
 - The need for a separate monitoring section with a "traffic light" priority system
 - Points in relation to the ordering of the document, certain sub-sections and points of detail and accuracy
 - Suggested changes to the priority considerations
 - The need for the public to be able to follow progress either on line or through an inspection of files
 - That anonymous complaints should be investigated
 - The need for greater collaboration between PCC departments, other bodies, town and community councils
 - Speaking should be allowed on enforcement matters at Development Management committee and there should be no delegated powers for enforcement
 - That conditions imposed on consents should be robust and enforceable
 - Public awareness of the implications of breaches of planning control should be increased

Appendix B

Representations received during consultation on Planning Enforcement and Compliance policy (SPG) commenced in January 2001 and closed on 27 April 2011, with officer responses.

1307 Mr SA Taylor, Martletwy Community Council

The Planning Enforcement and Compliance Policy, which sets out the aims and objectives of the Authority and outlines priorities and procedures to enable the service to be effective, members approved the salient points and, in particular, the emphasis on keeping consultees and complainants informed at all stages of the enforcement process.

Officer Response

Noted.

2897 Mrs YC Evans, Marloes & St Brides Community Council

We would propose that there should be a section which details how National Park undertakes enforcement and compliance as a normal follow up of planning consents, rather than as a response to third party complaints and allegations. It is important to the whole community that National Park is seen to be "open, fair and transparent in any dealings", and not that one applicant observes all the conditions in their consent, and another one appears to disregard conditions, and is not called to account by the Authority.

Officer Response

The policy relates to both investigations following a complaint and those breaches of planning control identified through officer's normal monitoring/site visits with a consistent approach given to each.

3457 Mrs Jill Eaton-Evans, Friends of Pembrokeshire National Park

As you will see, we strongly welcome this draft which is not before time and I trust you will take on board our comments which have been considered in some depth. We look forward to seeing further developments in due course.

Introduction and Background.

As always in matters affecting the Park, the Friends emphasise the importance of adhering to the principles enshrined in the present statutory framework for the Park, in particular, that where there is conflict in their application the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the Park are to prevail,

In the Friends' response to the Draft Recreation Plan we said that while we supported the emphasis on information, education and persuasion it was important for the success of such an approach that it be clear that appropriate powers were available and that they would be acted upon if necessary.

We wish to make a similar point in relation to Compliance & Enforcement. The Town & Country Planning legislation plays a major and critical role in the work of the National Park Authority and in this context Compliance & Enforcement are just as important in securing National Park purposes as the setting of policy and the handling of applications. It is, therefore, essential that breaches of planning control are, and are seen to be, dealt with resolutely. To ensure that this is achieved appropriate procedures need to be in place with a determination and resolve on the part of the National Park Authority to follow them through.

With these comments in mind, the Friends of Pembrokeshire National Park specifically welcome this paper on Planning Enforcement and Compliance which is not before time and our detailed observations are set out below under the headings of the paper.

Part I Vision, Aims and Objectives

Clause 1 It is agreed that an effective enforcement and compliance service is vital for two main reasons.

The first is to ensure the overall success of the planning system in the Park, in particular in meeting National Park purposes. It is essential that the enforcement policies, procedures and practice of the National Park Authority match, and are seen to match, the stringency to be found in the authority's general planning policies and its handling of applications. It should be clear to those minded to act without appropriate permission, or in breach of the terms of a permission, that the authority will act effectively and quickly where it is appropriate to do so. It is very important, therefore, that the final version of this paper conveys a clear and resolute message. The second reason is to maintain the credibility, not only of the planning service, but also of the authority itself. The vast majority accept the stringency of planning policy within the Park and comply, albeit sometimes reluctantly. With the limitations that that policy places upon them. Credibility is compromised in the eyes of that majority when they see others successfully breach the rules, sometimes to a significant extent. This again shows the importance of policy and practice pointing clearly to effective action where appropriate.

Clause 3. The latter part of this paragraph should be amended to read "...ensuring the credibility of the National Park Authority and its planning service in meeting the National Park's statutory purposes, in remedying any harmful effects arising from unauthorised development and protecting public amenity."

Clauses 4 & 5 It is assumed that the Welsh Assembly Government policy documents and TAN 9 reflect the special protection given to the National Parks and that the guidance contained within them will be applied accordingly.

Part 2 Priorities

Policy 1

High Priority.

The examples given of actions which may harm the special qualities of the National Park would all be applicable in any area. We believe that greater emphasis should be given to those special qualities in general and therefore would wish this category to be redrafted as follows:

1. Unauthorised development (whether in the form of works or uses) which is judged to be a serious breach of the protections given to the special qualities of the National Park
2. Unauthorised development which, if unremedied would cause serious and immediate harm to the environment or public amenity. (the use of the word 'irreparable' seems unnecessary)
3. Unauthorised listed building works, demolition of important unlisted buildings in a Conservation Area, significant unauthorised works to an Ancient Monument, a major archaeological site, protected species or a SSSI
4. Unauthorised development that is causing severe disturbance to neighbours or poses a threat to public safety.
5. Unauthorised works to trees covered by TPO or in a Conservation Area.

Medium Priority

1. Add "which do not fall within the High Priority category."
2. In view of the urgency this should be included in the High Priority category unless the breach is very clearly not one to which High Priority should be given.

Third Priority

3. We believe that this should be deleted. The absence of significant public complaint does not necessarily indicate that the breach is only of minor significance.

The Friends support the Priority System subject to our comments above. The system enables resources to be concentrated on the more significant breaches of planning control. For the system to be fully effective it is essential that

there are reliable procedures for checking when work has started under a permission and for regular inspection to see that there is compliance with the terms of the permission alleged breaches can be drawn to the authority's attention over weekends and during holiday periods as well as on working days. Means of contacting the authority during these times (not merely the facility to leave a recorded message) should be publicised and a member of staff should be available to receive the complaint and ensure that it is given appropriate consideration. It is well known that in some cases failure to act as soon as a breach starts prejudices ultimate effective enforcement.

- when an alleged breach is notified an initial assessment of priority is made as quickly as possible not just on working days. The urgency with which the alleged breach is dealt with depends, at least initially, on that first assessment.

We believe that these steps would assist greatly in achieving effective enforcement especially against those determined to breach planning control and who are willing to exploit any delays inherent in the authority's procedures.

The differing levels of urgency for initial response do not appear to apply to the projected time for completion of the first phase of investigation. The Friends suggest that the differing levels of urgency should be reflected here.

Part 3 Decision Making Policy I

It is recognised that the National Park Authority along with other planning authorities has discretion whether to take enforcement action but in the context of the protection given to National Parks it is vital that a clear message is sent, both in policy documents and in the way in which breaches are dealt with, that the authority will be resolute in maintaining that protection. We do not believe that the use of the word 'expedient' in the first sentence sufficiently demonstrates the appropriate resolve. Accordingly we would wish the decision to take action to rest on whether the unauthorised development amounts to a significant (i.e.. Not trivial or technical in a minor way) breach of the protection conferred on the National Park by statute, by the authority's planning policies and by the planning law in general. In such cases the test of whether planning permission would be granted in line with current policy seems right. If it is thought that permission would be granted the owner or developer should be encouraged to submit an immediate application coupled with an undertaking not to continue with any work or change of use until the application has been resolved. A tight time limit should be set for the submission of the application. Where permission is granted it may, of course, be subject to conditions and in this context we agree with Policy 9.

In so far as decisions are guided by Welsh Assembly Government policy documents and technical Advice

Notes we again assume that that guidance is applied in the context of the special protections conferred on

National Parks.

Policies 4 & 7

The Friends believe that all decisions whether to take enforcement action should be Members' decisions,

not those of officers alone and this should apply to any decision not to take enforcement action. Delegation arrangements to officers alone should not apply in enforcement cases.

For emergency action the decision should be made by the Chairman or Vice Chairman of the Development Management Committee in consultation with the Chief Executive or the Director of

Conservation & Planning.

Policy 8

We agree with the general basis of Policy 8 but tight time limits should be placed upon negotiations especially in high priority cases.

Peter Heard (Chairman)

Friends of Pembrokeshire National Park

21 April 2011

Officer Response

Clauses 1, 4 and 5 – Noted

Clause 3 – Agree that re-ordering could take place to refer to Park purposes first

Policy 1– The definition of development in the Planning Acts includes changes of use and provision 1 pays regard to the harm to the special qualities of the National Park

Irreparable is a stronger term to define those types of development that cause harm which cannot be repaired or remedied.

Medium Priority

Matters where the time for taking action is about to expire can range from the very minor to the very serious and in some cases it may not be expedient to take action. Those that do cause immediate and irreparable damage will be defined as High Priority in any case

Third Priority

Agree – the number of complaints is not necessarily indicative of the seriousness of the complaint

The points raised regarding out of hours recording is noted

The time limits given for completion of the first phase of investigation are in line with the Welsh Government's targets

Part 3 – Policy 1

The test of expediency does rely on the balance of the impact of the breach with regard to the National Park's purposes, planning policy and planning law.

Policies 4 and 7

The Authority's scheme of delegation approved by members does allow decisions not to take action to be made by officers. Authority to take action does require committee approval and any increased delegation will require a committee resolution.

3950 Mr Darryn Hill, Welsh Assembly Government

I would advise that the Welsh Assembly Government (Roads and Projects) as Highway Authority for the trunk roads have no objections or comments in respect of this proposal.

Officer Response

Report prepared on 6 June 2011

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Noted.

4133 Mr Stephen Hurr, Pembrokeshire County Council

I refer to the recent consultation document on a Planning Enforcement Policy for the Pembrokeshire Coast National Park Authority.

This is a well written document that addresses many of the issues faced by a local planning authority in its approach to the often difficult planning enforcement function, I would make the following comments:

The order in which the enforcement process has been considered could be re-organised chronologically, lending a little more clarity to the process for members of the public, and might lead to a slightly different perspective a one or two areas of the policy document:

- Introduction
- Receipt of Complaints (incl. confidentiality)
- Registration of cases
- Priorities
- Initial Investigation and site inspection
- Recording of findings
- Decision making (incl. Council owned property / liaison with other departments)
- Actions (incl. Reporting where appropriate)
- Conclusion of case

In respect of the priorities set out for planning enforcement investigation and action, the traffic light system works well and is clear. It may be worthwhile considering the following:

High priority (red)

No: 2, relates to issues where the primacy of legislation falls elsewhere. It may be correct for officers of the council to visit within this timeframe, but, I would suggest they would not be planning enforcement officers. These types of complaint usually fall into the second or middle category in the priorities of other enforcement teams.

Medium priorities (Amber):

No: 1 could relate to any complaint of any level of priority of complaint at any time in the investigation process.

No: 2 could be considered to have a higher level of priority.

Whilst you have produced a robust document that should guide the planning enforcement function of the National Park Authority, it would have been useful from the perspective of a resident of Pembrokeshire if the two local planning authorities had co-operated to produce a joint policy statement. I hope it is not too late to achieve this, and I would be willing to discuss further amendments with you to achieve this.

Officer Response

The order follows the Authority's handling procedures; matters are prioritised prior to any administration to ensure that urgent cases are dealt with quickly and effectively. The policy approach breaks down the overall document into "bite size" elements that are readily followed.

High priority cases may be handled by other bodies but may also be those that are the responsibility of the planning department. The first will be forwarded to the appropriate body; the latter need to remain a "red" priority.

It is agreed that No 1 of the Medium priorities could fall into any category and these will need to be scrutinised. As a general rule however, breaches that are contrary to the development plan should remain as a medium priority unless they cause harm as identified in the high priority listing.

A joint approach would be welcomed and further discussion can take place on this.

4181 Mr Reg Atkinson, Bettws Newydd Opposition Group

Email content:

Please find attached, a statement of comments from the Bettws Newydd Opposition Group on the Draft PCNPA Enforcement and Compliance Policy Document.

Within our statement, BNOG has commented on policies and procedures as it is stated at Part 1. paragraph 2 that both are covered. However, if you consider any of our comments are not relevant to consideration in revision of this particular document would you be good enough to ensure that they are passed to any other officer or relevant section of the PCNPA as necessary.

We have covered many points and wish to take the opportunity of this covering email to summarise them.

I have highlighted some of these and point out that points 7, 12,13 and 14 have been significant issues in the case of Bettws Newydd

1. The service should also aim to be equitable and consistent
2. The planning monitoring and enforcement service needs to be much more pro-active and less reliant on a complaints system
3. The profile of the service needs to be improved with steps taken to raise public awareness
4. There should be more openness and better record taking and recording, and the public should be able to follow progress on planning files or on line.
5. Anonymous complaints should be investigated and at the same time confidentiality of complainants protected until a point is reached at which it is illegal to do this.
6. The role of Ward Councillors and Town and Community Councils should be enhanced
7. The Authority must take strong action to break the attitude that conditions precedent can be ignored
8. Planning monitoring levels should be subject to a traffic light system of priority
9. There should be much closer liaison between development management and development monitoring and enforcement officers at both application and construction stages. The role of specialist PCNPA officers such as the Conservation Areas officer should be increased.
10. The covering letter to issuing consent must be carefully tailored to each consent
11. The service must be co-ordinated with others involved in building and development enforcement issues.
12. There should be a very close collaboration with PCC Building Control

13. There should be keener contact with the Environment Agency over potential enforcement issues.
14. Town and Community Councils should be able to make representation to the Development Management Committee about enforcement matters.
15. The Authority's scheme of delegation should not be extended without prior consultation.

Attachment contents:

Comments by the Bettws Newydd Opposition Group on: "PCNPA Planning Enforcement & Compliance Policy PCNPA Development Management Service" (Consultation Draft)
(Our emphasis throughout unless otherwise stated)

The Bettws Newydd Opposition Group (BNOG) is a formally constituted group, one of the aims of which is "to persuade the PCNPA to identify and itemise mistakes made in dealing with this development (Bettws Newydd Newport) and to change its processes to prevent repetition."

The PCNPA Monitoring Officer is currently preparing a report "COMPLAINTS ABOUT PROCEDURE (AND OTHERS) OF THE BETTWS NEWYDD PLANNING APPLICATIONS AND SUBSEQUENT APPEAL" which will come before the National Park Committee on 11th May 2011, after the closing date for receipt of comments on this consultation.

BNOG assumes that the Monitoring Officer's findings will be taken into account before the PCNPA "Planning Enforcement and Compliance Policy" is finalised. Nevertheless, we are hereby commenting ourselves, principally out of the experience of following the Authority's handling of the planning, enforcement and appeal process for Bettws Newydd.

1. Scope of the Document

1.1 Policies and Procedures- Whilst the title of this document is Planning Enforcement and Compliance Policy, it is stated at Part 1 Paragraph 2 that the document sets out the Authority's "policies and procedures". In the following statement, BNOG comments on both.

1.2 Informing and Engaging the Community - It is not clear whether this document is also intended to help the community to understand the powers, role, importance and working of the planning development monitoring and enforcement service and to engage with the process.

1.2.1 The Authority should publish complimentary guidance or update the "Planning Service Guide" in this respect.

1.2.2 An on-line Complaints and Notices Register, updated regularly, should be added to the Authority's E-Planning Service, where both cases that have been registered and determined can be followed.

1.2.3 The Authority should explore ways other than through its own publications and website to educate the community about planning regulations and policies in order to reduce the incidence of contraventions taking place or existing undetected or not detected early and rectified, simply as a result of public ignorance of these.

1.3 Service Profile - It is not stated if an aim of the document is to raise the profile and improve the reputation of the planning development monitoring and enforcement service, as BNOG

considers is necessary at this point in time.

1.3.1 The Authority should give greater publicity to successful prosecutions and actions.

2. Scope of the Service

2.1 The Authority should seek to raise the profile of that part of the service which is “Planning Monitoring”, whereby officers monitor work to ensure that authorised development is carried out in accordance with planning conditions.

2.2 The Authority appears to be unaware that many members of the public would be surprised at the level of reliance on receipt of complaints to activate the enforcement service, and the degree to which this is the case should be made clear.

The WAG consultation “Planning Enforcement System Review” 2006 stated that survey results suggested that enforcement bodies were not allocating sufficient resources. Levels of resources allocated are apparently entirely the responsibility of enforcing body and BNOG urges PCNPA to consider making more resources available to enable service improvements.

The Authority should aim for a greater balance towards monitoring, rather than response to complaints. This could avoid long drawn out investigations, following discovery of breaches late in the process, that are difficult to resolve.

Whilst it is stated here, that the service aims to “maintain effective monitoring procedures”, no detail is given and this should be rectified. The document should set out clearly how the Authority intends to monitor development to secure compliance with approved plans. The public must be assured that there will be adequate pro-active monitoring of development sites to achieve compliance with the terms under which planning permissions have been granted and the Authority should be open about the levels of officer’ monitoring of development that can be expected.

Those levels should also be subject to a traffic light system of priorities also clearly described to professionals and public.

3. Aims of the Planning Monitoring and Enforcement Service

3.1 Should the statement, “ensuring the credibility....meeting the National Park’s statutory purposes”, be attached to both of the aims that are given instead of just the first?

3.2 Should compliance with the Development Plan not be included as a justification of these aims?

3.3 Certainty, Consistency, Fairness- Is fairness not a factor also to be considered? The Authority does not acknowledge that it is only fair to those who comply with planning regulations and policies, for the Authority, when unauthorised development has taken place or where a breach of planning control has occurred, to aim to restore the situation to that before the breach. Whilst this is not an aim of the enforcement and compliance policies and procedures, the planning service will be perceived to be unfair by the public.

According to the “Welsh National Park Authorities Planning Services Review – Stage 2 Part B Technical Supplement” February 2011, the Authority was unable to even supply robust data on the number of enforcement cases resolved within 12 weeks in 2008/9 and 2009/10 but is “developing a new 12 week process through new ways of working”. It appears that these “new ways” are being driven by the need to meet the 12 week target rather than providing an efficient

and effective and equitable service.

The following facts taken in combination do not provide for certainty and consistency and the level of precision in planning control required to prevent developers within the National Park getting away with, and indeed setting out to take the risk that they are likely to get away with, anything which is vaguely in compliance with the Local Development Plan if they have not obtained permission, or with something vaguely close to what they have obtained permission for, if they have obtained a permission:-

- The fact that “Action to regularise breaches is discretionary...” (Part 1 paragraph 5 and TAN 9 paragraph 5).
- The fact that one of the points at which the first phase of investigation is to be considered to have been reached is when “A breach in planning control has been identified and an application requested, but has not been submitted. An assessment has been made determining that it is not expedient to take formal enforcement action in the case at this time.” (Policy 1 at point e. But without a corresponding Guidance point in TAN 9)
- The fact that “Formal enforcement action will not be instigated solely to regularise breaches in planning control where there is no demonstrable harm...” (Policy 3 and TAN 9 paragraph 6)
- The fact that the National Park “will aim to ensure that where a development is considered to be acceptable, but remains unauthorised, then the service of a notice (of enforcement) along with a statement (that the National Park Authority would be minded to grant planning permission subject to specified conditions) will protect the interests of future owners / developers.” (subtext to policy 9 but without a corresponding Guidance point in TAN 9).

However, Planning Policy Wales at 3.8.1 states that “An effective development management process requires local planning authorities to be prepared to take enforcement action in appropriate circumstances.”

TAN 9 states “The fact that enforcement action is discretionary and should be used as a last resort and only when it is expedient, should not be taken as condoning the wilful breach of planning controls. Powers are available to local planning authorities to bring unauthorised development under planning control, and it is for them to decide which power, or combination of powers, to use.”

The Authority should carefully consider each of the above bullet points to establish how its approach and practices can properly meet the stated aims of the service in an equitable way.

BNOG considers the second bullet point of particular concern. The Authority should state clearly that decisions concerning expediency will be based on harm to public amenity and not influenced by costs and lack of resources and targets of any kind.

4. Records, Record-keeping and Openness

4.1 BNOG welcomes the proposal to make available a standard form for use in reporting potential breaches of planning control and unauthorised work - which BNOG hopes will become the first part of a clear audit trail. The Authority should make this form available on line.

4.2 A complainant who initially telephones should be asked standard questions and the answers should be properly recorded by the Authority and acted upon, whilst a request for this to be followed by a statement in writing, using the standard form, is responded to.

4.3 The Authority should commit to careful and more detailed record keeping throughout the monitoring and enforcement process, with statements and also photographs signed and dated by the person making them and countersigned by a witness if possible.

4.4 Availability of Information. BNOG's experience has been that records of complaints and the enforcement process have largely been kept in separate files from those planning files which are easily available for the public to view.

However, it is also BNOG's understanding that, under the Freedom of Information Act 2000, the Authority has to make information available to the public, and this includes information about complaints.

The Authority should establish an on-line register, regularly updated, so that the process of dealing with complaints can be followed easily and so that contributions can be made to the process.

5. Confidentiality

There is no acknowledgement in this document that, for many people, it is not easy to complain, especially about neighbours or developers who may be powerful or bullying. (BNOG is not inferring here that this was the case at Bettws Newydd). The Authority does not appear to recognise that many people report a breach, not out of NIMBYISM, but in order to see principles of planning upheld and for the sake of sustainable development. They often do so in the face of potential unpleasant reactions. Greater understanding should be afforded by the Authority to those who wish to remain anonymous. TAN 9 paragraph 30 states "When complaints about alleged breaches of planning control are received they should always be properly recorded and investigated". TAN 9 does not qualify this statement to say "unless they are reported anonymously".

The Authority should make it clear that if a request is made under FOI legislation for the purposes of identifying a complainant, or for information which may lead to the identity of a complainant being revealed, then the person will be contacted for permission to disclose details. If the person refuses, then the request for this personal information will be denied.

However, the Authority should also make clear the information may be required to be disclosed e.g. By a Court or an Appeal Inspector and that whilst the Authority will even then endeavour to maintain confidentiality, it cannot give any firm guarantees.

The Authority should state clearly in this document and statement of policy that "The identity of a complainant will not be revealed by the Authority unless ordered to do so by law."

The Authority should advise that a person who wishes to remain anonymous despite such assurances could approach the local Ward Councillor to take up the complaint on his or her behalf. County Councillors should be briefed by the Authority in how to handle such situations and supplied with the relevant forms.

The role of the Town or Community Council in this respect should also be established and set down.

6. Conditions attached to Consent

Planning Policy Wales (Feb 2011) states at 3.6.2 that “Conditions will only be imposed where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. “

“There is a direct link between the quality of decision making on planning applications – including in particular the use of clear and appropriate conditions – and successful enforcement.” WAG Planning Enforcement System Review Consultation Paper 2006

Very much greater attention needs to be given by PCNPA Development Management Officers to the careful construction of conditions, in consultation with development monitoring and enforcement officers, in order to be sure that conditions are enforceable.

The number of factors left to conditions rather than given approval at the time of consent should be minimised.

The number of “conditions precedent” should be minimised, and this type of condition should be avoided where at all possible, with the matters to be covered incorporated into the actual consent.

The Authority should provide planning application forms to be used for the submission of details to discharge a planning “condition precedent” to ensure that all the necessary details are provided and so that requests can be dealt with consistently. These forms should be automatically supplied where appropriate at the time of issuing consent.

TAN 9 at paragraph 28 states, “It is for each local planning authority to decide how to organise the enforcement of planning control in its area” The Authority needs to take strong action to break the attitude that “conditions precedent” can be ignored within the National Park or dealt with retrospectively, if at all.

The Authority should indisputably clarify for the applicant which conditions are “conditions precedent” at the time of issuing consent and state that the Authority will not approve, retrospectively, details required by a “condition precedent”.

If development specified in such a condition takes place before the details required are submitted, the Authority should resolve that it will issue a “breach of condition notice” and a new application will be required. Any application submitted as part of the rectification process will be considered under s.73A© of the Act and treated no differently from an application made in advance of the works being carried out, that is against the Development Plan, and require the same fee submission, validation process etc.

7. The working relationship between PCNPA officers, role and status of officers

7.1 The WAG Planning Enforcement System Review Consultation Paper 2006 states that “There are strong arguments for the movement of staff between enforcement and the rest of the control function.”

Within the PCNPA there should at least be much closer liaison between development management and development monitoring and enforcement officers at both application and construction stages. “True development management is a seamless process that takes an identified project through from inception to completion.” RTP1 14/04/11

Consultation with development management and enforcement officers before the plans of Bettws Newydd were stamped approved might have avoided the fact that the location of the building on the site was unenforceable (because the site plan was fiction), and might well have detected that the condition relating to levels required more careful construction as it was also unenforceable (because there were no corresponding levels marked on the plans).

7.2 Whilst recognising that the review does not apply to Wales, BNOG endorses the recommendations in the "Review of Planning Enforcement" (2007) by the Department of Communities and Local Government at Recommendation 7, particularly at

- a) Enforcement Staff should have a career structure
- b) Staff should be encouraged to rotate between all aspects of development control including enforcement so that it is understood by planning staff
- c) There should be a common salary scale for all planning staff
- d) Training should cover all aspects ...includes planning enforcement.

BNOG urges PCNPA to consider following these recommendations in building a stronger development monitoring and enforcement service.

7.3 The potential enhanced role of specialist officers such as the Conservation Areas Officer, Trees Officer, Landscape Officer and Sustainable Development Officer in the planning monitoring process is not articulated. The Authority should emphasise and encourage a special role of the Conservation Areas Officer in development monitoring in Conservation Areas within the National Park.

8. The Authority's covering letter to the issuing of consent should be carefully tailored to each consent.

8.1 The letter should be sent to the Owner/Developer. (The owner of Bettws Newydd informed the Inquiry Inspector that he had not been informed by his Architect Agent that consent had been given (NP/06/076))

8.2 The letter should make it clear that where planning permission is granted subject to conditions, it is the responsibility of the applicant, or any subsequent developer, to ensure that the terms of all conditions are met in full at the appropriate time. (The owner of Bettws Newydd informed the Inquiry Inspector that he had not been informed that there were conditions attached to NP/06/076)

8.3 The letter should draw attention in particular to each condition attached which stipulates that the development cannot commence unless the condition is fulfilled, and state that if development is commenced without compliance with the terms of such a condition having been met, the development may be unauthorised. A breach of condition notice will be issued and failure to comply means that the individual is guilty of an offence and a criminal prosecution in a magistrate's court should follow.

Any application submitted as part of the rectification process will be considered under s. 73A of the Act and treated no differently from an application made in advance of the works being carried out. (The architect agent to Bettws Newydd claimed to the Inquiry Inspector that the legal context of not complying with conditions precedent had not been explained by the Authority)

8.4 Construction of the letter should be closely tied into priorities for pro-active monitoring. The letter should note that the Authority's Development Monitoring and Enforcement Team is undertaking active monitoring of development sites to achieve compliance with the terms under which planning permissions have been granted and where relevant should point out that priority will be given to applications with a condition precedent attached.

8.5 The letter should also make very clear that any need that subsequently arises to alter the design from that which has been approved for planning purposes for whatever reason, including compliance with Building Regulations, does not mean terms of planning consent can be contravened, and the Authority should be contacted to determine whether a further planning application is required. (Officers of the Authority handling the Bettws Newydd case, were unaware that the development was constructed to drawings produced for Building Regulations which were substantially different from those stamped approved for planning purposes, more than a year into construction work)

9. Coordination

9.1 The Authority should set out how its planning enforcement service will be co-ordinated with others outside PCNPA. TAN 9 at paragraph 28 states

"All authorities should ensure that there is a close and co-operative working relationship between the Planning and Legal departments and other departments e.g. Building control and environmental health. Although those other departments may be concerned with the enforcement of controls outside the planning regime, they could have information which could be relevant to the identification of possible, or actual, contraventions of planning control."

Whilst such a cooperative working relationship is more difficult for PCNPA as a separate Authority from Pembrokeshire County Council, this difficulty should not stand in the way of exploring ways to deliver a better standard of service and is even more reason why mechanisms by which cooperation will take place should be clearly worked out, properly agreed and set down

9.2 Relationship with Building Control

RTPI is currently asking for views on "Can a better working relationship between planning and building control improve the delivery of sustainable buildings and communities and provide a better service to the public?" BNOG would certainly give an answer in the affirmative.

TAN 9 recognises that effective enforcement action depends for its success on speed of assessment and process. It is not a legal requirement to inform the planning authority of start of work on site but it is the case for building control. It should be arranged that the PCC Building Control Team should regularly provide "Start of Works Lists" to PCNPA Development Management.

The National Planning Forum Planning and Building Control Working Group has proposed "joint monitoring, compliance and enforcement of projects under construction" in its Report "Improving the Connection" September 2010, and BNOG fully endorses this. Another recommendation in the NPF Report, of relevance, is that the potential of Building Control bodies becoming statutory consultees in the planning process should be considered. Such an arrangement could reduce the number of changes to plans required post-approval and therefore the number of breaches where developers proceed without referring back to the planning authority to determine whether further permission is required.

Building permits should not be issued for works that require, but have not been granted, planning permission, or are not being constructed to stamped approved plans for planning purposes. The realisation, by PCNPA officers, that Bettws Newydd was being constructed to drawings produced for building regulations approval rather than to plans approved for planning purposes, only after a year into construction work, is a situation which must not be repeated. This will require a system that enables Building Control to hold copies of the PCNPA stamped approved plans, possibly by asking that they are submitted together with plans for Building Regs. Approval.

9.3 Relationship with the Environment Agency

It is BNOG's observation that cooperation in drainage/ landscaping/ enforcement matters at Bettws Newydd has been particularly wanting. Complainants found themselves moved from pillar to post between PCNPA, PCC and the EA. If this cannot be shown by PCNPA to have been a unique problem, action should be taken urgently to improve the service provided.

9.4 Relationship with Town and Community Councils

Members of the lowest tier of government are obviously potentially in a key position to assist in monitoring development. The Authority should explore the enhanced role that might be played by Town and Community Councils, how communication with the Development Monitoring and Enforcement Service can be improved and whether this should be more structured.

10. The Need to Allow Representations to be made to the Development Management Committee
Bettws Newydd was brought to the Development Management Committee under "Enforcement and other Matters" in October 2007 when the possibility of both the Revocation of Planning Permission under section 97 of the Town and Country Planning Act 1990 (as amended), and a Discontinuance Order under section 102 were considered. (Incidentally these are not included in the "Annex" to this document). Newport Town Council asked to be able to address the Committee, but this request was refused and afterwards Town Councillors reported back to the Town Council that the Council's views had been misrepresented in the Officer Report. BNOG asserts that, had the Council been able to speak to Members to give the true level of concern within the community, it is highly likely that a Site Visit would have been arranged and the outcome different.

BNOG advocates that Town and Community Councils are allowed to address the Development Management Committee about enforcement matters should they strongly wish to do so.

11 The Authority's Scheme of Delegation

Under policy 1. at point f. It is indicated that formal enforcement action could be taken under the Authority's scheme of delegation, whereas policy 4 states "that formal planning enforcement action will be made by Members through the Development Management Committee" and under the Development Scheme "should this be extended in future". Which is correct?

The Bettws Newydd Opposition Group would be very wary of any extension of the Delegation Scheme and hereby seeks reassurance that there will be a consultation process before this takes place.

BNOG/27/04/11

Officer Response

1.2 – The document is intended to set out the Authority's policies and procedures in dealing with

planning enforcement and compliance and identifies its priorities.

1.2.1 – This is being carried out

1.2.2 – An on-line register cannot be provided due to the confidential nature of enforcement and compliance

1.2.3 – Agreed, this policy is one part of that education

1.3.1 – Press releases are sent out when applicable

2.1/2.2 – The policy relates to both investigations following a complaint and those breaches of planning control identified through officer's normal monitoring/site visits with a consistent approach given to each. The Authority is considering ways in which local community groups/councils can assist in this process

Policy 1 should be strengthened to refer to compliance with planning conditions / criteria 4 of medium priorities and 1 of low priorities refers to breaches of planning conditions

3.1 – The planning approvals and conditions imposed will have had regard to the Authority's statutory purposes and this would be repetition.

3.2 – This should form a further aim

3.3 – These comments are noted. A balance needs to be struck between timely enforcement action being taken and with regard to the severity of the breach and the expediency of taking action with regard to the government's advice.

4.1 – This will be available in due course

4.2 – Each case is dealt with on its individual merits and standard questions may not fully explain the particular case being reported.

4.3 – Agreed and measures are now in place

4.4 – As 1.2.2 – the Freedom of Information Act enables some information to be provided but not that relating to individuals. The practice of handling separate files is essential to ensure confidentiality and protection of sensitive information.

5. – The Authority acknowledges that it is often difficult for complaints to be made. It is recommended that policy 2 be amended to include reference to this difficulty and to suggest that complaints be made through their local councillor or community/town council where there is concern regarding identity.

6. – Noted - the Authority is reviewing the imposition of conditions in partnership with a Welsh Government project. The Validation of Planning Applications SPG requirements also reduces the need to impose numerous pre-commencement conditions.

7. – Noted – greater flexibility/co-ordination between staff within the planning service is now taking place

8. – The Authority sends out a letter with all approvals identifying the need to comply with all conditions

9. – Agreed – joint working with other partners is being explored. The need to work with Building Control officers is noted and agreed, but will not be comprehensive as not all Building Control matters are dealt with by PCC but by other private companies.

Liaison with Community/Town councils is being explored.

10. – The protocol for speaking at committee on enforcement matters does not currently allow for this practice. Consideration will be given to this in the future.

Agree that discontinuance/revocation action should be included in annex to policy.

11. – Both could apply although at present no delegated powers are in place for taking enforcement action. Any proposal for this would be the subject of a report to members

1. Part 1: Vision, aims and objectives

- 1.1. An effective planning enforcement and compliance service is vital to the overall success of the planning system, and thus to meeting the community's development needs while conserving and enhancing the National Park's special landscape qualities and natural and cultural resources and fostering its economic and social well-being.
- 1.2. This document sets out the Authority's policies and procedures towards dealing with planning enforcement and compliance issues with priorities in place for serious and time-sensitive breaches.
- 1.3. The service aims to:
- be timely, effective and responsive in the prevention, control and remedying of unauthorised development, ensuring the credibility of the planning service in the interests of *meeting the National Park's purposes*, the protection of public amenity, *and* remedying any harmful effects arising from development.
 - maintain effective monitoring procedures to ensure that authorised development is carried out in accordance with planning approvals and conditions
 - *ensure that development is in accordance with adopted development plan policies*
- 1.4. In providing its enforcement and compliance service the NPA will meet the key objectives of the Welsh Assembly Government's "Planning: Delivering for Wales" programme as they relate to the enforcement process, i.e. to be open, fair and transparent in any dealings with both the complainant and the alleged transgressor.
- 1.5. All parties involved in planning enforcement must remember that a breach of planning control is not a criminal offence, except for unauthorised works to Listed Buildings and illegal advertisements. Action to regularise breaches is discretionary and it is Welsh Assembly Government guidance that enforcement action should only be taken when it is appropriate to do so and any such action should be commensurate with the breach of planning control to which it relates and not to punish the person(s) responsible. (See WAG Planning Policy Wales para 3.8 and TAN 9 Enforcement of Planning Control).

2. Part 2: Priorities

Policy 1: Breaches of planning control *including non compliance with planning conditions* will be investigated appropriately in accordance with the following principles underlying an order of priority and subject to a “traffic light” system.

High Priority - Red

- i. Unauthorised development which causes serious immediate and irreparable harm to the environment or public amenity, particularly any works judged to harm the special qualities of the National Park, for example, unauthorised listed building works, demolition of important unlisted buildings in a Conservation Area, significant unauthorised works to an Ancient Monument, a major archaeological site, protected species or a Site of Special Scientific Interest.
- ii. Unauthorised development that is causing severe disturbance to neighbours or poses a threat to public safety.
- iii. Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation Area.

Medium Priority - Amber

- i. Breaches of planning control contrary to the policies of the Local Development Plan.
- ii. Complaints where the time limit for taking formal action is about to expire.
- iii. Complaints of significant harm being caused to amenity, for example, extensions to residential property that result in serious overlooking or other amenity problems, unauthorised uses of land which cause amenity problems to neighbouring properties.
- iv. Commencement of development in non-compliance with the conditions of a planning permission.
- v. The erection of unauthorised advertisements that have a significant detrimental effect on highway safety or visual amenities.

Low priority - Green

- i. Minor breaches of planning conditions, unless covered above.
- ii. Minor domestic matters regarding fences/sheds/satellite dishes, boundary and ownership disputes, unauthorised changes of use not immediately giving rise to significant amenity concerns.
- iii. Unauthorised advertisements not covered above.

2.1 Depending on the seriousness of the alleged breach and available resources the target time for an initial response will be as follows: -

High Priority cases: A site visit and initial investigation will be made within one working day of receipt.

Medium Priority cases: A site visit and initial investigation will be made within seven working days of receipt.

Low Priority cases: A site visit and initial investigation will be made within fifteen working days of receipt.

2.2 Each case will be given an initial priority rating. In programming site visits in higher priority cases the enforcement officers will be mindful of taking opportunities where convenient to visit other, lower priority cases on the same trip. A case priority may change following the initial site visit or on receipt of additional information.

2.3 An acknowledgment will be provided to the complainant within five working days. As the investigation progresses the complainant will be advised of progress and the outcome in writing. The Enforcement team will aim to complete the first phase of the enforcement investigation within twelve weeks of the date the complaint was first received. The team's performance in meeting these targets will be monitored and reported regularly to the Authority's Performance Review committee

2.4 The first phase of investigation is complete when one of the following points has been reached:

- a. The case is closed because the investigation identifies that no breach of planning control has occurred or that the breach is of so minor a nature that further action is not warranted.
- b. The case is closed because an identified breach of planning has been
- c. resolved by negotiation.
- d. Following the investigation a planning application or other form of application has been submitted in respect of the unauthorised development.
- e. A breach in planning control has been identified and an application requested, but has not been submitted. An assessment has been made determining that it is not expedient to take formal enforcement action in the case at this time.
- f. A breach in planning control has been identified and an assessment has been made determining that it is expedient to take formal enforcement action: appropriate action has been authorised by the Development Management Committee or under the Authority's scheme of delegation.

Policy 2: Complaints about alleged breaches of control will be accepted by letter, e-mail, telephone or by personal caller, provided the complainant provides their name, address and telephone number.

2.5 Every effort will be made to reassure anybody wishing to make a complaint that their details will be kept confidential. *The Authority appreciates that complainants may be wary about raising issues where they may be identified. However, complaints are often made which are based on non-planning reasons (ie property disputes). As such* anonymous allegations of breaches of planning control will not normally be investigated unless they allege serious breaches of planning control. *Where complainants are concerned about their identity being revealed at any time they may seek to direct their complaint through their local councillor or community/town council.* Complainants will be encouraged to use a standard form in framing their complaints, and all complaints should clearly identify the location of the site or property concerned, should clearly specify the exact nature of the problem and give an indication of any harm being caused. It would be helpful if any additional information about the identity of the person or organisation thought responsible and the date or the time that the breach commenced is included.

2.6 The complaint will be acknowledged in writing within five working days and the complainant will be advised of the officer dealing with the case and his/her contact details; and will be advised of progress at the following stages:

- the initial assessment of the problem,
- when any formal notice is served
- the lodging of any appeal or other court action
- any prosecution to be undertaken
- final closure of the investigation including those closed as not expedient/no breach identified

2.7 If the matter is outside the powers of the NPA the complainant will be informed in writing as soon as practicable with the reasons why no action can be taken, and advised, if appropriate and known, of any other body they should contact.

2.8 While a complainant's identity will be protected the success of any subsequent enforcement action may be dependent on their willingness to co-operate and possibly give evidence at an appeal or court hearing.

3. Part 3: Decision-making

Policy 3: The NPA will take enforcement action only when it is considered expedient to do so. Formal enforcement action will not be instigated solely to regularise breaches in planning control where there is no resulting demonstrable harm. In taking formal enforcement action the NPA will be prepared to use all the enforcement powers available commensurate with the seriousness of the breach.

- 3.1 In deciding whether to take enforcement action the NPA will have regard to the development plan and to any other material considerations, including national policies and guidance in Planning Policy Wales, Technical Advice Notes and Supplementary Planning Guidance.
- 3.2 In considering whether it is expedient to take enforcement action the decisive issue will be whether the breach of planning control unacceptably affects public amenity, existing land uses and buildings which merit protection in the public interest or the natural environment. Any action taken will be proportionate with the breach of planning control to which it relates. All decisions as to whether to take enforcement action or not will be recorded on the file/database with reasons why that decision has been taken.
- 3.3 This reflects the approach to enforcement set out in Planning Policy Wales and Technical Advice Note 9 Enforcement of Planning Control. Where it is assessed that it is likely that planning permission would be granted for the development, the person responsible would normally be invited to submit a retrospective planning application. It will generally be inappropriate to take formal enforcement action against a trivial or technical breach of control, which causes no harm to amenity or the environment.
- 3.4 In defending enforcement action on appeal and in the courts, it will be necessary to show that the relevant procedures have been followed and that national policy on planning and enforcement has been taken into account.

Policy 4: Decisions on taking formal planning enforcement action will be made by Members through the Development Management Committee (or under the Authority's Scheme of Delegation should this be extended in the future). Any decision to take such action shall be based on a written report, and have regard to any advice from the Solicitor, and be agreed by the Committee (or be authorised by the Head of Development Management, the Director of Conservation and Planning, or the Chief Executive (National Park Officer) should the Scheme of Delegation be extended

- 3.5 The frequency of Development Management Committee meetings should minimise the need to take emergency action, but occasionally this may be necessary. Emergency enforcement action shall only be authorised by the Chief Executive (National Park Officer) or the Director of Conservation and Planning - in either case in consultation with the Chairman, or Vice Chairman of the Development Management Committee. In giving such authorisation due consideration shall be given to any advice from the Head of Development Management and the Solicitor. Any such emergency action shall be reported to the next meeting of the Development Management Committee to seek ratification of the action taken.

Policy 5: It is the policy of the National Park Authority that Members of the Development Management Committee who are serving Magistrates or have partners or close family members that are serving Magistrates shall not take part in any decision in respect of enforcement issues which may result in formal legal action.

- 3.6 This policy has been put in place to prevent any perception of conflict of interest on the part of Members of the Authority who are serving Magistrates

Policy 6: In considering whether to take enforcement action the Authority will not give weight to the fact that development has already commenced.

- 3.7 Other than in very specific situations, for example, works to listed buildings, it is not a criminal offence to carry out development without planning permission, and it is therefore important that unauthorised developments are treated on their individual merits in the same way as proposed developments. The test to be applied will be “would planning permission have been granted for this development had it been the subject of a planning application?”

Policy 7: Decisions not to take enforcement action will normally be made by the Head of Development Management in accordance with officer delegation arrangements. Reasons for not taking action will be recorded in writing/on the database.

Policy 8: The National Park Authority will not allow unnecessarily prolonged negotiation to delay essential enforcement action.

- 3.8 While the National Park Authority will endeavour to overcome any harm caused by unauthorised development by negotiation wherever possible, the enforcement system rapidly loses credibility if unacceptable developments are perpetuated by prolonged or protracted enforcement discussions and can result in more costly and complex cases where work

continues. As such a time limit for concluding negotiations will therefore normally be set in accordance with the priority accorded to the case but will aim to close the initial complaint within twelve weeks of the date of receipt.

Policy 9: In situations where an unauthorised development may only be made acceptable by the imposition of appropriate planning conditions, a planning application will be sought to regularise the development. Where such an application is not forthcoming within an agreed time scale, an enforcement notice will be served requiring compliance steps to be taken which are proportionate to the breach together with a statement that the National Park Authority would be minded to grant planning permission subject to specified conditions.

3.9 The National Park Authority will aim to ensure that where a development is considered to be acceptable, but remains unauthorised, then the service of a notice along with a statement will protect the interests of future owners/developers.

Policy 10: In considering whether to take enforcement action, the National Park Authority will not give weight to non-planning considerations.

3.10 It is not the purpose of the planning system to protect the private interests of one person against the activities of another. Action must be placed on sound planning grounds. Local opposition or support for an unauthorised development will not be given weight unless that opposition or support is founded upon valid planning reasons.

Policy 11: In considering appropriate enforcement action the National Park Authority will liaise closely with departments within Pembrokeshire County Council and other regulatory bodies over their powers under other legislation.

3.11 From time to time more effective and efficient outcomes can be achieved by use of powers outside the Town and Country Planning legislation. It is also important that the National Park Authority's enforcement action is coordinated where relevant with action being considered or taken by the County Council under other legislation.

4 Annex: An outline of enforcement measures

Planning Contravention Notice

- 4.1 In some circumstances it is not possible from the site visit or details of the complaint to establish the full facts of the case. Furthermore any formal notice must be served on all parties with an interest in the land. In such instances a Planning Contravention Notice will be served. This requires the recipient to provide information requested relating to any alleged breach within 21 days. Failure to return that document completed is itself an offence which is answerable in the Magistrates Court.

Breach of Condition Notice

- 4.2 This notice is an alternative to an Enforcement Notice for remedying a breach arising from the failure to comply with any condition or limitation subject to which planning permission has been granted. It is not a legal charge on the land and can only be served on the person responsible for the breach. It can be mandatory (requiring something to be done) or prohibitory (requiring something to stop). It will specify a period of compliance which cannot be less than 28 days. There is no appeal against such a notice which is answerable in the Magistrates court.

Enforcement Notice

- 4.3 This notice, when issued, must specify the alleged breach and specify the steps to be taken to remedy the breach within a specified timetable, has to be served on all parties who have an interest in the land. This may mean serving on the mortgagee ie the Bank or Building Society which lent the money to purchase the property or other family members who similarly have an interest in the property. The Notice can either refer to a Change of Use of the land or to an operational development. There is a right of appeal, within 28 days of the service of the notice, and there are six grounds on which that appeal can be based. If the requirements of the notice are not met, and no appeal has been lodged or any appeal has been dismissed then the responsible person may be prosecuted.

Stop Notice

- 4.4 Having served an enforcement notice the Authority may consider that any ongoing breach is so serious that it should cease immediately. In such cases a Stop Notice will be served. There is no appeal against such a notice. However its service may give rise to the obligation to pay compensation.

Advertisement Discontinuance Notices

- 4.5 Where an unauthorised advertisement causes substantial injury to the amenity of a locality or a danger to members of the public Local Planning Authorities can serve a Discontinuance Notice to require the removal of the notice.

Injunctions

- 4.6 If warranted Local Planning Authorities can apply to the High Court or the County Court for an injunction at any stage of the enforcement process. Again it can be mandatory or prohibitory and normally the “test” for taking such a step is that nothing short of that action would be effective.

Section 215 Notice

- 4.7 If it appears to the Authority that the condition of a property or land adversely affects the amenity of the area then the above can be served identifying the reasons as to why it is considered that the condition is detrimental and the steps necessary to remedy the situation. The only right of appeal is to the Magistrates Court and failure to comply can result in prosecution in the same court. Alternatively the authority can consider carrying out necessary remedial works itself and seek to recover its costs from the owner.
- 4.8 **Urgent Repairs Notice** to require necessary works to a listed building, which should only relate to the overall integrity of the building, can be served on all interested parties in respect of an unoccupied building.
- 4.9 **Repairs Notice** can be served in respect of an occupied listed building which in the opinion of the Local Planning Authority is not being properly maintained. This can lead to compulsory acquisition by the Authority of the subject building to ensure that it is properly maintained. Similarly there is legislation which empowers the Planning Authority to take action on mineral sites or where Tree Preservation Orders have been ignored.