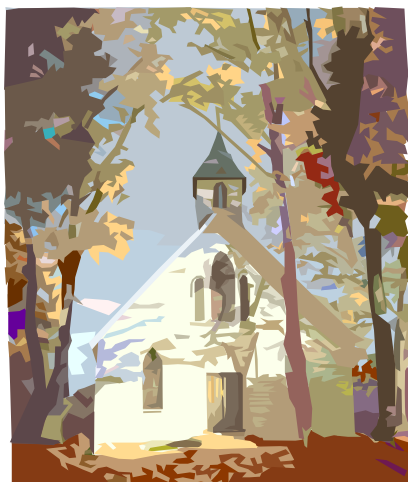


Other Planning Controls



Introduction

The other Advice Notes concentrate primarily on planning applications. In addition, there are certain other planning controls and designations which provide a greater degree of protection over valued parts of the environment.

This advice note sets out some of these controls and highlights the duty imposed upon the local planning authority.

Environmental Assessment

Some planning applications for major developments are required to be accompanied by an assessment of their environmental impact. This is known as an "Environmental Statement".

If it is required, the local planning authority must take it into account before reaching a decision. The aim of the Statement is to establish the likely effects of the development on the environment and to propose measures which will be used to

avoid, reduce or remedy any significant adverse effects.

Two types of scheme are affected. Those where a statement must be produced known as Schedule 1 projects, and those which are likely to have significant effects on the environment are known as Schedule 2.

Schedule 1 projects are really significant proposals that have a much greater impact on a wider area and include such schemes as power stations, airports and landfill sites for special wastes.

Those in Schedule 2 include intensive livestock installations, mineral extraction, urban developments, shopping and leisure centres and golf courses. The list is by no means exhaustive and can include any proposal where the effects would be "significant".

This sometimes leads to a dispute with an applicant as to whether a Statement is required.

The local planning authority cannot grant planning permission for development requiring an environmental statement unless the relevant procedures have been followed and any necessary statement has been submitted.

Listed Buildings

Every local planning authority has a statutory list of buildings, which the Secretary of State (via English Heritage) considers to be of special architectural or historic interest. These buildings are called "listed buildings".

Listed building consent will be required for their demolition or any works, both internal and external, which affects their character as buildings of architectural or historic



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interest. Any works carried out to a listed building which do not have consent, amount to an offence for which the owner or developer may be prosecuted.

Listed buildings are graded according to their importance. Those which are "outstanding" are listed grade I or II* .The rest and large majority are listed grade II, although the statutory controls apply equally to all listed buildings.

Buildings built before 1840 are usually listed. Later buildings are listed depending on their merit.

Control over what needs listed building consent is necessarily strict. Alterations such as replacement windows, stone cladding, re-roofing or even painting may need consent. The removal of internal features such as fireplaces is also subject to control.

In considering any application involving a listed building or its setting, the local planning authority must pay "special regard" to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

This means that where applications involve or affect a listed building, the degree of control will be rigorous.

Conservation Areas

Conservation areas often include many listed buildings. Their merit, however, lies in their overall character and appearance. They may cover just a few streets, open areas or much of a town or village.

Their effect is similar to listed building control albeit more limited, in that permission, known as 'conservation area consent', is required to demolish most

buildings and structures within a conservation area.

Huntingdonshire District Council has appraisals for some of its conservation areas. Others are being prepared. These act as a guide for development management and identify features which contribute to the area's special character and interest.

The designation of a conservation area does not mean that new development should be prevented. Nor does it mean that buildings of modern design will always be refused. However, for all applications involving development in a conservation area, applicants must show that no harm will be caused to the character or appearance of the area.

Trees are given statutory protection within a conservation area, so long as they have a stem diameter of 75 mm or more. Notice of intended works to trees needs to be made to the local planning authority. Further advice is given in the section on Trees below.

In considering an application for buildings or land in a conservation area, the local planning authority must pay "special attention" to the desirability of preserving or enhancing the character or appearance of that area.

As with applications affecting listed buildings, any proposals for land or buildings within a conservation area will be subject to very careful consideration.

Trees

Trees may be protected by a **Tree Preservation Order (TPO)** or by standing within a designated **Conservation Area**.

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The purpose of a TPO is to protect trees which make a significant impact on their local surroundings. All types of tree may be protected by a TPO, including trees in hedges, but hedges, bushes or shrubs cannot be protected. Any species of tree may be protected. A TPO makes it an offence to cut down, top, lop, uproot, wilfully destroy or damage a tree without the Council's permission, but no species is protected automatically by a TPO.

Trees protected by Tree Preservation Orders remain the responsibility of the tree owner, but the Council's permission is required before carrying out work on them.

An application should be made before carrying out work to TPO'd trees. In an emergency or if the tree is clearly dead, dying, or dangerous works may be carried out without first seeking permission, however the owner of the tree will need to prove that the tree was dead, dying or dangerous. Works to trees including felling may also be carried out without permission in accordance with a Forestry Commission felling licence, or where a tree is directly in the way of a development where planning permission has been granted.

Trees in Conservation Areas with a stem diameter of greater than 75mm are also protected, and anyone wishing to carry out works must first give six weeks notice in writing to the Council.

Unauthorised works to trees protected by a Tree Preservation Order or standing within a Conservation Area is a criminal offence. The owner can be prosecuted and fined.

In granting planning permission for any development, the local planning authority is obliged to ensure that where appropriate there is adequate provision for the protection and retention of existing trees and

provision for new tree planting and associated landscaping.

Advertisements

For the purposes of planning control, the term "advertisement" has a wider than usual meaning. It includes almost anything which announces or directs. Advertisement consent is required for some advertisements.

Some of the exclusions from the need to obtain advertisement consent are advertisements displayed on a vehicle, road traffic signs and notices within a building where they are more than one metre away from any external door or window through which they can be seen from outside.

Certain advertisements need approval or 'express consent' before they can be displayed. This depends on several factors such as the nature, size and purpose of the advertisement, how and where it is displayed and whether it is illuminated.

Express consent cannot be refused because the local planning authority considers the advertisement to be misleading, unnecessary or offensive to public morals.

In considering an application for the display of an advertisement, the local planning authority can only refuse consent on the grounds of "amenity" or "public safety".

The local planning authority can seek to have an existing advertisement removed if it considers the advertisement is harmful to amenity or public safety. Public safety includes dangers for drivers or others using a highway.



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The authority may also take steps itself to remove or obliterate any placard or poster which it considers is in breach of advertisement regulations.

It is an offence to display an advertisement without the necessary consent.

Lawful Development

An application for a Lawful Development Certificate can be made to establish whether an existing or proposed development is lawful. If a certificate is granted, it means that planning permission is not required or has effectively been given. The question is simply whether the development is/would be lawful. The merits of the proposal cannot be taken into account.

'Prior Approval'

Certain proposals for agricultural development, demolition works and telecommunications development are 'permitted development' but still require the developer to submit certain details before works can proceed. In such cases, an application for "prior approval" is submitted. These are not planning applications but they do give the District Council limited control over some details of the development.

Hedgerow Regulations

Permission is needed to remove most countryside hedgerows. The removal of hedges forming the boundary of a garden does not require permission unless they are subject to an approved landscaping scheme.

High Hedges

Part 8 of the Anti-social Behaviour Act 2003 gives local authorities powers to

deal with complaints about high hedges. It came into operation in England on 1 June 2005.

This should only be pursued when all other avenues for resolving the hedge dispute have been tried and exhausted.

Hazardous Substances

Hazardous Substance Consent is required for hazardous substances in an amount at or above its controlled quantity as defined by government regulations.

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Please Note: This advice note is intended as a general guide. It should not be relied upon, or taken to be a full interpretation of the law.