



Enforcement

Procedure

Planning Policy No. 2

Adopted by Marden Parish Council on: 11th June 2013

Reviewed/Amended on: 6th June 2017 / 3rd April 2018 / 4th June 2019 / 6th April 2021 / 8th March 2022 / 14th March 2023 / 12th March 2024

Review date: March 2025

Office Opening Times:

Mondays, Tuesdays & Fridays 10am - 12 noon

www.mardenkent-pc.gov.uk

Email: clerk@mardenkent-pc.gov.uk

Parish Council Planning Policy No 2 – Enforcement

PLANNING COMMITTEE

ENFORCEMENT PROCEDURE

Procedure in dealing with alleged breaches of planning control

Introduction

The recommendations of Marden Parish Council (MPC) are useful to the Local Planning Authority (LPA), Maidstone Borough Council (MBC), when reaching planning decisions. However, MPC also has an important function in reporting possible enforcement issues.

Planning enforcement is considered to be the most difficult part of the planning system to administer. Whilst it attracts more litigation than the rest of the planning process, enforcement powers are the teeth of the whole planning system without which it would be ineffectual.

A breach of planning control, in itself, is not usually a criminal offence, however unauthorised works to Listed Buildings and protected trees as well as a failure to comply with requirements of a valid Enforcement Notice can attract considerable penalties. LPAs are not bound to take enforcement action. However, failure to do so in some circumstances can constitute maladministration. LPAs do not have to be sure that a breach of control has occurred to take action, it only has to appear to be so. It must also be noted that enforcement action may only be taken before the expiry of four years after the initial breach in the case of operations or conversion to dwellings, or ten years in the case of changes of use or breaches of conditions.

Potential Planning Breaches

Potential breaches of planning control are frequently brought to the attention of Parish Councillors, usually on an informal basis. The very nature of enforcement issues mean they are usually controversial, and residents are often reluctant to bring such issues directly to the attention of the LPA. MPC will endeavour to assist local residents in these matters. However, it is important that individual Councillors do not comment directly on any specific cases. MPC is not the appropriate authority in dealing with such matters. It is therefore recommended that Councillors follow the agreed procedure. Should a resident or village organisation bring to your attention an alleged breach of planning control:

Carefully explain that the LPA – usually MBC - is the correct authority to which the matter should be reported. It is preferable that the resident should report the matter directly to MBC Enforcement Team. However, if the resident wishes to remain anonymous MPC can report the alleged breach to MBC. MPC to state to the resident that this does not imply that it is an actual breach - this is for MBC to investigate and report back [Planning enforcement | Maidstone Borough Council](#).

Reporting Alleged Planning Breaches

The Enforcement Officer will require a specific site location and details of the alleged breach in order to investigate the matter.

The Clerk will bring the matter to the attention of the MPC Planning Committee under the relevant confidential agenda item.

MPC will check, to the best of their knowledge and resources, whether the matter has been the subject of a valid grant of planning permission or is a current application awaiting determination. If this is the case, then no further immediate action is required from MPC unless the concern is that the alleged works are not being undertaken in accordance with the permitted plans.

If MPC is not aware of any relevant planning information the matter will then be reported to MBC Enforcement Team via MBC's website. The Clerk will monitor response and report back to the MPC Planning Committee.

Confidentiality

The nature of enforcement issues is such that many of the details may be confidential. For this reason, enforcement issues are discussed in a closed session of the MPC Planning Committee at the end of the bi-monthly planning meetings and only those Cllrs on the MPC Planning Committee can remain. All other Cllrs and public in attendance will be required to leave the meeting at this point.

However, if it is not deemed to be confidential, it can be discussed publicly at the MPC Planning Committee/Full Council meeting.

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