Ulley Parish Council Meeting to be held at 7.00 pm on Wednesday 25\textsuperscript{th} January 2017 at Ulley Village Hall.

Dear Councillor, 19\textsuperscript{th} January 2017

You are summoned to attend the above meeting of Ulley Parish Council.

E Taylor, Clerk

AGENDA

A public session will commence prior to the formal Council meeting in accordance with paragraph 4.6 of the Council’s Standing Orders.

PART I NON–CONFIDENTIAL ITEMS

In accordance with Regulation 4(6) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, audio/visual recording and photography at Council meetings is permitted in accordance with the Council’s protocol “Filming of Public Meetings”.

1. To receive and consider apologies for absence.
2. To approve, sign and date the minutes of the Parish Council meeting held on 30\textsuperscript{th} November 2016 - attached 1.

3. **Declarations of interest and dispensations**
   
i. To receive declarations of interest from councillors on items on the agenda.
ii. To receive written requests for dispensations for disclosable pecuniary interests (if any)

iii. To grant any requests for dispensation as appropriate1 - attached 2

4. To receive information on the following on-going issues and decide further action where necessary.

- Update on former Clerk – Has pleaded guilty and will be sentenced in March.
- Recreation Ground Lease – attached 3
- Permissive footpath – attached 4

5. To discuss communications received by the Chairman - attached 5.

6. Lease to the Village Hall – To receive feedback from the Millennium Trust and determine matter of issuing a lease for the village hall to the Millennium Trust - attached 6.

7. Christmas Lights – Meeting of MT and PC to take place at 6pm before PC meeting so the PC chair will provide a verbal update.

8. HS2 – Further to the last PC meeting the letter was sent to HS2 as attached 7 and will be circulated around the village.


From the 30th November 2016 the following payments have been made:

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<th>Description</th>
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<td>Stamps</td>
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1 A Councillor is at risk of prosecution for committing criminal offences in s.34 of the 2011 Localism Act if they, without dispensation, participates or votes on a matter being considered in which they have a disclosable pecuniary interest (s.31(4) of the 2011 Act). Or written notification of such DPI has not already been given to the Monitoring Officer and the member does not provide written notification of the interest to the Monitoring Officer with 28 days of the meeting (ss.31(2) and (3) of the 2011 Act. Or they knowingly or recklessly provide false or misleading information about the above (s.34 (2) of the 2011 Act).
Npower £36.18

We have Received:-

Halifax fund refund for sleepers and flag pole concrete £267.05

The clerk has rectified errors on the one drive accounts. The one drive and bank statements now balance and the current balance in the account as of 18th January 2017 is £4,602.00.

The savings account has a balance as of 1st December 2016 of £97.97.


12.To receive an update on Halifax fund bids approved by the Halifax Estate – Nothing to report.

13.Precept – This has been submitted for 2017/2018.

14.To discuss urgent business items – attached 10.

15.Battle’s Over a nations tribute – attached 11.

16.Planning enforcement plan – Comments from the PC in relation to attached 12.

17.To agree the next meeting as 29.03.17 at 7.00pm Ulley village hall. Future meeting dates confirmed as:-

31.05.17
26.07.17
27.09.17
29.11.17
Minutes of the Parish Council Meeting held 30 November 2016
Village Hall – 7.00 pm

Present
Peter Hubbard (chair), Richard Steel (Vice Chair), David Wing, Richard Robson and Ian Stones

Clerk - Emma Taylor

Five members of the public

Public Session

Concerns were raised by the public about the following items:-

- Whether the dog bin that had been damaged by a suspected firework at the top of Reservoir Road had been reported and removed. It was noted that it had been reported and that it had been removed within the last day or so. There was also a concern raised about the dog bin that had been moved by the villagers, as it hadn’t been emptied again. The Chair confirmed this had already been noted and reported.

- A member of the public asked if Turnshaw Road was being resurfaced in the road works that were due to start shortly. The Chair confirmed that the current roadworks appeared to relate to the cross roads only at the end of penny Hill Lane. An update about the roads in the village would be provided in the meeting.

- A member of public confirmed that a delivery van had been stolen from outside the farm in the village. The driver had left the engine on and the keys in. Chair confirmed this was not an issue for the PC.

- Issues were raised about the problem of cars speeding in the village. Nothing had happened since the PCSO and villagers did speed checks in the village. The Chair confirmed that more information about speeding would be provided in the meeting but he was aware that Alan who had been dealing with it had been off sick for two months so a different PCSO was now dealing. Chair is due to chase them up next week.

120/16 Apologies – None

121/16 Minutes of the PC meeting 28th September 2016

Resolved: The minutes were accepted as a true and accurate record and were signed by the Chair.

122/16 Declarations of Interest – None declared

123/16 On-going issues

1. Former Clerk, Andy Pashley – Chair confirmed that he has been charged with Fraud and will appear in the Magistrates Court. 
   **Resolved:** No further action for the PC to take.

2. Recreation Ground Lease – Update was provided in short report attached to the agenda. PC objected to paying the costs of RMBC and RMBC have agreed to remove clause 18. On that basis, PC has to decide whether to approve the Heads of Terms. If approved, RMBC legal team will then produce the contract.
**Resolved:** PC approve the Heads of Terms. They will be signed and returned to RMBC

3. Permissive footpath – Update provided to confirm that both estates have approved the plans. The contract is now with both estate offices for consideration.  
**Resolved:** Chair will chase the estate offices.

### 124/16 Communications received by the Chairman

The Chair had received a letter from the Millennium Trust (MT) regarding the issue of there being no heating or frost protection in the toilet area of the village hall. This had resulted in a burst pipe previously when the pipes froze. MT had obtained prices to install two heaters. They wanted to know a) whether the PC would allow the work to be undertaken and b) whether the PC would pay the cost of approximately £60. There was debate between the councillors as to whether this was the duty of the PC. Clerk confirmed that PC own the village hall. Decision councillors had to make was, was the work structural? If so, then it followed that PC should pay.

**Resolved:** PC agreed work was structural. PC will agree to the work being done and will agree to pay. MT are to be informed.

### 125/16 Lease to the village hall

The Chair had provided a short report and the copy lease. Lease is due for renewal to MT. PC have to agree, for the lease to the MT to be renewed. There was debate between the councillors about this. Question was raised as to whether the lease should be renewed or whether PC should run the village hall due to VAT advantages. Chair questioned whether sub-committee would have to be set up. If so, Chair understood that it would have to have a Clerk and PC would have to pay the caretaker. There was no clarity as to whether it was financially better or not for PC to run the Hall. Clerk confirmed she would not act on a sub-committee due to other commitments. An amendment to the recommendation was therefore made.

**Resolved:** Issuing of the Lease would be deferred until PC has full information about financial advantages and disadvantages to the PC of running the Village Hall. MT are also to be asked whether anyone on the MT would sit in a subcommittee. Clerk is to send the request.

### 126/16 Christmas Lights

Chair confirmed that due to the late time of year, MT would put up the Christmas lights as usual for this year. For future years MT and PC are to work together.

**Resolved:** Any information about Christmas lights to be used in future years, should be done with a co-ordinated approach. All information and cost that any councillor or MT member want considering should be available by 25th January 2016. PC will consider the issue further at the next PC meeting. It was resolved that a time limited committee was not necessary as PC and MT can work together on this.

### 127/16 HS2

Chair provided an update, correspondence and plans attached to agenda. The preferred route is via Sheffield. PC are concerned by this. One turbine from Penny Hill Windfarm will go for definite. This will reduce the funds available to the PC in Ulley, Whiston, Thurcroft, Aston and Treeton by 30% from the Halifax fund and 1/6 from the Banks fund.
Resolved:
1) PC will respond to the consultation process with additional comments about the loss of community funding.
2) PC are to consider the compensation offered generally under the HS2 scheme. Decision will be made at the next meeting whether the PC wish to comment.
3) Clerk will make all PC affected by the reduction in community funding aware.
4) PC amended the recommendation made in the agenda to add that a draft response to the proposed HS2 route would be made available in the village so that each villager can send if they wish to. Chair pointed out that PC response only equate to one response.

128/16 Road repairs

Chair provided an update to PC that RMBC had confirmed that Main Street and the roads in the village would be included in resurfacing schemes in 2017. A map will be produced closer to the time which will identify which roads.

Resolved: The Chair is to send PC thanks to the ward members for their efforts.

129/16 Playground Equipment

Once the lease to the recreation ground is obtained the PC need to bring the grounds up to scratch and consider what equipment should be put in it. PC will have to have a clear plan of monthly and annual inspections. RMBC will include the ground in their schedule of inspections so PC benefits from the reduced rate. PC needs to consult with villagers.

Resolved:
1) Village mail drop will be organised to ask for ideas/improvements to the rec ground.
2) Church to be approached to ask if the church can be used as a drop off point for the suggestions.
3) RMBC be approached to obtain information regarding specification of the equipment, site inspection and equipment status report.

130/16 Planning appeals

Chair provided an update. Planning permission is being sought to turn a small-scale warehouse into a larger unit just outside the village. No change of use has been sought.

Resolved: PC is to respond with concerns that if it doubles in size, will lead to more HGV traffic in the village

131/16 Planning Workshop

Chair provided an update. No action needed by PC

132/16 Financial report on PC

Clerk provided an update about the balances of the PC accounts. No current payments to approve.
Resolved: Clerk is to update the current spreadsheet on OneDrive, to ensure that all payments are on. Clerk is to complete VAT return.

133/16 Halifax Fund

Chair provided an update on the Halifax fund. Spent more on tables and chairs that budgeted for. Question as to whether this is right as it was thought the spend had been only for the total allowed.

Resolved: Clerk to double check the figures.

134/16 Update on fund bids approved by Halifax

The Chair provided an update to confirm that the flagpole had been installed, the retrospective application for funding for the sleepers had been granted only due to the concerns raised by residents, the money has been paid into PC accounts. In relation to the bid for speed signs, Halifax have raised several questions, one of which has to be put to RMBC.

Resolved: The Chair will continue to liaise with Halifax and RMBC to answer those questions.

135/16 Area Assembly

The Chair provided an update. No action for PC to take.

136/16 Precept

The Clerk went through the proposed budget that had been set out for the application for the precept for 2017/2018. Discussion was had by all councillors about the figures. The PC agreed them in principle. It was agreed that the PC would absorb the loss of the council tax fund reduction so that the council tax for the villagers did not rise. The Clerk confirmed that following the difficulties with Andy Pashley’s accounting, the PC did not have a surplus fund. The consultant had advised that there should be a years precept in the reserves. Clerk confirmed that there would be approximately £3,000 left at the end of the year 2016/2017 which would provide a good start to achieve this reserve over the next few years.

Resolved: The application for the precept would be set at £6,213 plus the Council tax £257, which would give the PC an overall figure of £6470 for the year 2017/2018.

137/16 Dates for meetings 2017

The dates had been proposed as the last Wednesday of each alternate month. Some councillors confirmed they could not make some of the dates.

Resolved: Councillors are to send to the Clerk details of which meetings they can attend and which they cannot. For the ones they cannot attend they are to suggest different dates. The Clerk will then send a new list of dates to councillors.
Dispensation and declarations of interest.

There has been a slight change in the law since that last dispensations were granted. These are now controlled by the Parish Council. The Parish Council can either grant dispensations at their meetings or they can delegate the power to the clerk by adopting the following resolution:-
RESOLVE that the Council delegates the power to grant dispensations to the Clerk. The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2)."

A central record is then required. The dispensation can be granted for 1 meeting or a period up to 4 years.
Recommendation –
1) That the Council delegates the power to grant dispensations to the Clerk. (The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2)).
2) That the dispensation to Councillor Ian Stones as set out in the attached document be agreed
3) That dispensations should normally be for a period of 4 years
4) All requests for dispensation be sent to the Clerk to the Council.
Ulley Parish Council Section 33(2)(a) Dispensation Application

I wish to apply for a dispensation from section 33(4) under section 33(2)(a) of the Localism Act 2011. I was co-opted onto the Council at its meeting in May but also serve as a Trustee for the Ulley Millennium Trust.

As a Parish Council we own the Village Hall but it is occupied by a registered charity called the Ulley Millennium Trust who lease the building from the Parish Council. Structural issues remain the responsibility of the Council but other items such as internal elements and alterations can be done by the Trust with the Council’s written agreement.

As a result we occasionally have items on the Parish Council agenda that involve the Millennium Trust but two of the existing Councillors are Trustees and one is a Trust committee member. That means that of the five Councillors that make up the Parish Council four are involved in the management of the Trust. [The three existing Councillors mentioned above have already been granted a dispensation].

Ian Stone
7 Poynton Way
Ulley
Sheffield
S26 3VJ
Attachment 2  Recreation Ground Lease Update
The heads of terms having been signed have been returned to RMBC Estates division to enable the lease to be created. To date there has been no further response and the matter has been followed up. Any actions will be reported verbally at the meeting. RMBC have also been asked to provide a contact who can advise regarding the play equipment and again to date there has been no response despite following up on the matter.
Attachment 4

Permissive footpath update

Halifax Estate have been in touch regarding the proposed agreement. They have expressed concerns that the issue of liability is not adequately covered and are seeking a proforma agreement from the Landowners Association to share with the Parish Council as a way forward. The document is still to be provided.
Clerk
Ulley Parish Council

Dear Mrs Taylor

You wrote to the Millennium Trust asking members to consider the following: Whether any members of the Millennium Trust would be prepared to sit on a sub-committee with members of the Parish Council to run the village Hall if the lease were not renewed.

The above suggestion was considered at our meeting on January 11th 2017 and the outcome was that no one was prepared to sit on such a sub-committee. This decision was unanimous.

I hope this clarifies the Trust’s position and that the lease agreements can now be completed as soon as possible so that the responsibilities and liabilities of both the Millennium Trust and the Parish Council are clear. You will appreciate it is very difficult for us to consider and plan events and activities until this matter is resolved.

Yours sincerely

Sue Hubbard, Secretary, Ulley Millennium Trust

cc. Graeme Hinchliffe, Chair, Ulley Millennium Trust
Lease of Village Hall to the Millennium Trust

The question was raised at the last meeting of the Parish Council (PC) that it may be more cost effective for the PC to not renew the lease to the Millennium Trust (MT) due to the ability of the Council to re-claim VAT, which the MT cannot do.

This lead to the question of how the PC would run the village hall and whether there would need to be a subcommittee of members from both the PC and the MT.

The financial viability has been considered by the Clerk. The PC currently pays the Electric bill and Water rates for the village hall and any VAT will be included in the annual VAT return. Any structural maintenance is the responsibility of the PC and again any VAT can be claimed back. The lease to the Millennium Trust does not affect this. The money spent by the MT appears in the main to be on items where little to no VAT is claimable and the cost to the PC of purchasing those items would increase the level of precept needed in coming years.

The PC would receive the rents for use of the village hall if the lease to the MT was not renewed, however the PC would also have to employ a caretaker for the Hall and a clerk for the meetings of the subcommittee. The current caretaker is a volunteer but has so far been in receipt of an honorarium. The PC would not be able to continue this as they are an employer and would have to employ the caretaker thus incurring all the usual employer responsibilities including potential pension liability depending on hours worked and amounts paid. It is not felt that the increase in income to the PC would cover the additional cost.

The MT were asked to speak to the members at their next meeting to see how many would sit on a subcommittee. The MT have confirmed that no members would be willing to sit on such a committee.

Recommendation – The lease be granted to the MT. (A copy of the lease will be available at the meeting of the PC if councillors wish to review the content again.)
Dear Sir

Re: Proposed change of route to HS2

Question 7 Derbyshire to West Yorkshire

(M18/Eastern Route)

On behalf of Ulley Parish Council please accept this letter as an objection concerning the proposed change of route to HS2 in the South Yorkshire Area in the M18 corridor.

The original route for HS2, that was subject to the first round of consultation, involved the route running to Meadowhall, Sheffield, thus creating a new station, linking to a good transport infrastructure and direct and quick links to London and other economically important areas. This option serves the South Yorkshire area well given the integrated travel infrastructure available at Meadowhall and gives the potential to create jobs in the local areas of Rotherham, Barnsley, Doncaster and Sheffield and importantly create major opportunities for residents to obtain employment in the other major commercial centre’s served by the HS2 link. This would help both current and future generations.

The proposed changes, lead to no direct HS2 train links to South Yorkshire and only a normal speed branch line service, which will run through an already crowded Sheffield station. HS2 staff at the exhibitions in the local area stated the need for HS2 was in part because the line running through Sheffield is at capacity and as such cannot take additional traffic. How then are these extra branch line services to be accommodated without causing further deterioration to existing
services? In addition the road infrastructure in Sheffield is also at capacity and would remove any possible reduction in journey times from the rail link due to congestion in the road network.

This proposal leaves the people in Rotherham, Doncaster and Barnsley with none of the promised benefits that the original scheme offered. Indeed the proposed journey time to London via the branch line, is virtually unchanged from the services that Rotherham residents can currently access from existing current train links to London.

The Sheffield and South Yorkshire report 2016 stated that HS2 should undertake a study to make recommendations to the secretary of state about the potential for a parkway station on the M18 eastern leg, which could serve South Yorkshire as a whole if the current HS2 proposals went ahead. So far no sites have been identified and we would suggest that no site will be found that offers the integrated transport network offered by Meadowhall with the associated potential to regenerate and build capacity in the South Yorkshire region.

The current proposed route will inevitably hold many consequences for the residents of Rotherham such as a loss of homes, businesses, recreation facilities and school places, without bringing any apparent benefit. The nearby areas of Bramley and Aston, are located at two of the region’s busiest points of access to the M1 and M18 (and lead to the A1M) motorway network and will be hugely affected by the proposals and the building works the HS2 line will bring. This will cause extreme travel disruption for a large part of the region’s population, again bringing into question the benefit of the proposed scheme to the residents of the locality.

Ulley, a small village of some seventy houses, has already witnessed the green belt land, which is also classed as an area of outstanding landscape value in the local plan, that surrounds it transformed by a wind farm and the upheaval that creation of such a site brings. The proposed HS2 route will run through the same land close to Ulley, to the extent that at least one of the turbines will have to be removed. We are aware that other windfarms will also be similarly affected by HS2 and this brings into question the commitment to renewable energy generation but also has an immediate financial effect on five local Parish Councils.

Two community funding regimes exist based on the Penny Hill Wind farm. The funding levels for both funds are based on the generating capacity of the six turbines, which make up the wind farm, which will fall if turbines are removed.

The fund operated by the Banks Group (the windfarm operators), which provides funding opportunities to the Parishes of Ulley, Treeton, Aston, Whiston and Thurcroft, would be cut by approximately 17% from £20,400 per annum to £16,932 if only one turbine is removed.

The second fund is provided for the village of Ulley by Lord Halifax, one of the local land owners with turbines on his property. This fund is based on the generating capacity of only three turbines and generates £6,000 per annum. The
loss of one turbine equates to a 33% loss; reducing the funding available to £4,000. The impact on these two funding regimes represents a potential loss to our village of £5,468

We strongly urge that all involved in the process consider very carefully the new proposed route and whether it really benefits the people of South Yorkshire as it was originally promised. If the aim is to bring the North and South together, the new route appears to offer little advantages to those it was specifically intended to help. We object to the proposed route. The most advantageous route to the City Region, would still appear to be the original proposed route to a station at Meadowhall.

Yours faithfully

Peter Hubbard
Chair of Ulley Parish Council
Dear Resident

You will be aware that the Government has announced a plan for HS2 to run through the Rotherham area and that they have started a consultation exercise on the new route proposals.

In response to the proposed route the Parish Council has sent a letter of objection to HS2, a copy of which is attached. However, the letter from the Parish Council only counts as one objection even though it is sent on behalf of Ulley. If you share our concerns as an individual and resident of Ulley and you want those concerns to be noted, you need to send a letter of your own. It is the number of letters of concern that will make a difference and be noted.

The Parish Council have agreed to distribute our response so that you can use any of the content to create your own letter. Each person’s view is different and so your letter needs to be personal to you.

It is known that if the route currently proposed goes ahead, at least one of the turbines will be taken down and the funding from the Halifax Estate and Banks Community Fund will be reduced as a result. This will have a direct impact upon our community and the future.

You can respond on line at:- route2b.dialoguebydesign.net
or by post to:- Freepost HS2 Phase 2B Route Refinement Consultation

We thank you for taking the time to read this letter whether you have concerns about the proposed HS2 route or not.

Yours sincerely

Emma Taylor
On behalf of Ulley Parish Council
**Ulley in Bloom**

Traditionally Ulley in Bloom has comprised of summer and winter planting schemes financed by the Parish council with the planning of the planting, ordering of the plants and planting carried out by volunteers. Last year a resident made a successful bid to the Halifax Fund for a grant to pay for the beds to be planted and watered by a commercial nursery. In addition hanging baskets were purchased through grant funding and a separate contract was taken out for them to be planted for the summer period by the same nursery. Maintenance of the baskets was carried out by volunteers in the village.

Going forward to this year's Ulley in Bloom there is at present no volunteer ready to plan the planting or order the plants. The Council are therefore asked to consider how they want to take this forward for 2017/18. Options include

1) Bid for funding to have a commercial nursery plant both the beds and the hanging baskets.
2) Bid as in 1) above but take the beds and hanging baskets forward as two separate bids
3) Seek volunteers from the village to plan the planting, order the plants, plant the beds and hanging baskets and water them as required throughout the year
## Payments

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**Receipts**

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**Receipts less expenditure**

| 252  | 4,376 |

B/f 2015/16
226

**Total funds**
4602
Attached 13

Urgent Business

Leak to the toilet in the village hall.
Shortly before Christmas it was reported that the toilet in the ladies cubicle was leaking. This had to be dealt with urgently. A decision was made by the Chair, Vice Chair and Clerk to employ a plumber under the urgent business powers of the PC. The plumber carried out the work and his invoice of £40 has been paid.
On the 3rd August 1914, Britain's Foreign Minister, Sir Edward Grey, was looking out of his office window. It was dusk, and gas lights were being lit along London's Mall, leading to Buckingham Palace, when he remarked to a friend, "The lamps are going out all over Europe; we shall not see them lit again in our lifetime". Our country was about to be plunged into the darkness of the First World War, and it would be four long years before Britain and Europe would again experience the light of peace.

In commemoration and remembrance of the end of the war and the many millions who were killed or came home dreadfully wounded, a chain of 1,000 beacons will be lit throughout the United Kingdom, Channel Islands, Isle of Man and UK Overseas Territories at 7pm on the 11th November 2018 – a century after the guns fell silent.

You will be pleased to know therefore, that more than 320 town and parish councils have already confirmed their involvement, and will be lighting a beacon at 7pm on 11th November 2018, as part of their plans for this important anniversary that day.

The event will also commemorate the huge army of men and women on the home front who, often in dangerous and exhausting conditions, underpinned the war effort - keeping the wheels of industry turning, bringing the harvests home and ensuring the nation did not starve.

The beacons will symbolise the 'light of hope' that emerged from the darkness of war, and we hope that your council and local community will join us in this important national commemoration on Sunday 11th November 2018, especially as the majority of you would have had a previous member of your family involved in this four year conflict, so will become a personal tribute in their memory.

Detailed co-ordination begins in April 2017, when we will publish a special Guide to Taking Part, similar to that produced for Her Majesty The Queen's Birthday Beacons on 21st April this year. If you can confirm your involvement before the end of March 2017 we will be able to include your organisation in the guide’s acknowledgements pages before it is distributed.
to others encouraging their involvement too.

The reason for sending this information so far in advance, is because we understand from those already participating, they have started to plan their events for this commemoration.
Participating councils, organisations and community groups will receive a special certificate as a permanent reminder of their involvement in this special tribute.

There are a number of cost-effective ways of participating in the chain of beacons.

(1) Use existing beacon braziers on tall wooden poles erected in 1988 and for other recent anniversaries.
(2) Use gas-fueled beacons lit for The Queen's Diamond Jubilee in 2012.
(3) Use the gas-fueled VE beacons lit to commemorate the 70th Anniversary of VE Day in 2015.
(4) Use the gas-fueled beacons lit for The Queen's 90th birthday in April this year.
(5) Build a traditional bonfire beacon.

I would be grateful if you would confirm your involvement by providing me with the following details as soon as possible to ensure that you are included in the guide when published, and put on the events website at the end of April 2018.

Name of organisation:
Name of beacon co-ordinator:
Address of beacon co-ordinator:
Telephone number:
Mobile number:
Email:
County:
Country:
Beacon location:

Please confirm if your beacon will be open to the public or will be lit at a private event for family and friends. This is important because private beacons will not be included in the acknowledgements pages of the guide but will be included in the list kept in memory of this unique occasion.

When planning your beacon, your local newspaper could help you in contacting a relative of someone who served their country in WWI so you can invite them to light your beacon. This will also help you to gain media coverage for your event while providing a personal and touching aspect to the occasion, so do hope your council will join us in this special tribute and look forward to hearing from you soon.
Yours sincerely,

Bruno Peek LVO OBE OPR
Pageantmaster
Battle's Over - A Nation's Tribute 11th November 2018
Tel: + 44 (0) 7737 262 913
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Recommendation: PC to express their interest in the event
ROtherham MBC

Draft Planning Enforcement Plan
CONTENTS:
1. Introduction
2. Government advice and legislation
3. The purpose and scope of Planning Enforcement.
4. What is a breach of planning control?
5. How will we investigate your complaint?
6. Failure to comply with notices
7. What happens if an allegation is made against you
8. Proactive compliance
9. Powers of entry onto land
10. Complaints about the Service

APPENDIX 1 – Flow chart
APPENDIX 2 – Potential enforcement options

1. INTRODUCTION

1.1 The Planning Enforcement Plan relates to Rotherham Metropolitan Borough Council’s Planning Enforcement Service and will describe the purpose of the Service and how the Council will deliver it to the community. It sets out how the Service will help to address breaches of planning control and prioritise its work. It describes the range of powers available, how we decide whether or not to pursue enforcement action and the process of enforcement. The Enforcement Plan will ensure that Councillors and officers, external agencies and the community are aware of our general approach to planning enforcement.

1.2 The planning system operates to regulate development and the use of land in the community’s interest having regard to the development plan and other material planning considerations. The effective and proper enforcement of planning control is essential to community confidence in the planning system. It is important that the interests of residents, visitors and businesses are protected from the harmful effects of unauthorised development, in addition to protecting the local environment.

1.3 The Council has a duty to investigate alleged breaches of planning control and has powers to remedy proven breaches, where it is appropriate to do so. The Council views breaches of planning control very seriously. It is the Council’s policy to exercise powers appropriately and rigorously so that development takes place in accordance with the appropriate legislation or the planning conditions and limitations imposed on any planning permission.

1.4 Many decisions relating to planning enforcement can be taken at officer level whilst more significant issues are taken by Councillors, and the details in respect of this are set out in the Council’s Scheme of Delegation.
2. GOVERNMENT ADVICE AND LEGISLATION

2.1 The Town and Country Planning Act 1990 (as amended) provides the main legislative background regarding breaches of planning control. Government advice is set out in the National Planning Policy Framework (NPPF) and Paragraph 207 of the NPPF states that:

“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.”

2.2 In addition to the statement made in the NPPF, the Government provides general guidance in the National Planning Practice Guidance, in a chapter titled “Ensuring effective enforcement” which is a ‘live’ document that is subject to regular updates and refers to all relevant legislation.

3. THE PURPOSE AND SCOPE OF PLANNING ENFORCEMENT

3.1 Planning enforcement covers the areas of planning permission, advertisement consent, listed building consent, tree preservation orders, and the hedgerow regulations. National legislation allows some minor and small-scale works to be undertaken without the need for planning permission. These works are known as “permitted development”. Any works carried out as permitted development cannot be subject to enforcement action.

3.2 The Council must act within the provisions of national legislation and take account of relevant national policy when considering enforcement matters. Enforcement options and powers range from requiring information to assess a case, through serving notices requiring action to be taken, to the Council prosecuting offenders and/or taking direct action itself. In using these powers
the Council must also consider relevant policies within the NPPF, case law and local policies.

3.3 The integrity of the Planning Service depends on the Council’s readiness to take enforcement action when appropriate. The Council is committed to providing an effective Planning Enforcement service. Planning laws and policies are designed to control the development and use of land and buildings in the public’s interest. The Council will not condone wilful breaches of planning control and will exercise discretion to take enforcement action if it is considered expedient to do so. The Council will investigate alleged breaches of planning control, to determine whether a breach has, as a matter of fact occurred, and if it has, determine the most appropriate course of action.

4. WHAT IS A BREACH OF PLANNING CONTROL

4.1 The Town and Country Planning Act 1990 (as amended) sets out what constitutes ‘development’. A breach of planning control is defined at Section 171A of the Act as “the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted”. This could involve such matters as the unauthorised erection of a building or extension to a building or a material change of use of land or buildings. Other matters that can be a breach of the relevant legislation include:-

- Unauthorised works to Listed Buildings
- Unauthorised works to trees subject of a tree preservation order (TPO) or in a conservation area
- Unauthorised demolition within conservation areas
- Breaches of conditions attached to planning permissions
- Not building in accordance with the approved plans of planning permissions
- Unauthorised engineering operations, such as raising of ground levels
- The display of unauthorised advertisements. Untidy land where it affects the amenity of the area (these are also dealt with by Environmental Health Service).
4.2 The Council often receive complaints regarding matters that could be dealt with by other Council Services/external agencies, or that the Planning Enforcement service cannot become involved in. Below are a few such examples with details of who the correct enforcing agency would be depending upon the exact nature of the complaint:

- Internal works to a non-listed building (Building Control)
- Obstruction of a highway or public right of way (Streetpride / Police)
- Parking of commercial vehicles on the highway or on grass verges (Streetpride / Police)
- Parking mobile caravans on residential driveways or within the curtilage of domestic properties (private issue only, if a Contravention of Deeds)
- Running a business from home where the residential use remains the main use of the building use and there is no negative impact on neighbours (no material change of use)
- Land ownership and boundary disputes (private legal matter)
- Covenants imposed on property Deeds (private legal matter)
- Dangerous structures or other health and safety issues (Building Control / Health and Safety Executive)
- High Hedge disputes (Environmental Health Service)

5. HOW WILL WE INVESTIGATE YOUR COMPLAINT?

Receipt of complaint

5.1 Complaints about alleged breaches of planning control will be accepted by on line complaint form, e-mail, letter, telephone or personal caller at reception at RMBC. Anonymous reports will not generally be investigated unless they concern a statutorily listed building or a protected tree as there is the possibility of irreparable damage. Complainants who do not wish to give their personal details will be advised to contact either their Local Ward Member or their Parish Council who may then raise their concerns on their behalf. All complaints are dealt with in strictest confidence and the details of the complainant are never revealed, unless agreed by the complainant.
5.2 All enforcement complaints are logged on the computer system with a unique reference number so that each complaint can be monitored and the complainant updated on progress. The complainant will be informed of who is dealing with the complaint, and the target dates for visiting the site (where appropriate) and ultimately for closing off the complaint.

**Prioritising the complaint**

5.3 The Council receives approximately 300 planning enforcement complaints each year. In light of the often lengthy and complex nature of planning enforcement investigations, and to make the best use of limited resources, it is necessary to give priority to those cases where the greatest harm is being caused. Priorities are directed by the significance and impact of the breach, the level of harm caused and the need to react expediently.

5.4 The following sets out the Council's priorities for investigating alleged breaches of planning control. The enforcement process is closely regulated by legal procedures, planning legislation and government guidance. This provides the framework for the Council's enforcement priorities. As an investigation of a particular case proceeds it may become necessary to change the priority level.

**High priority (Category A)**
- Demolition or alterations to a listed building;
- Works to trees subject to a tree preservation order or within a conservation area;
- Demolition in a conservation area and any other works which are considered to cause significant and immediate harm to the character and appearance of the area;
- Any breach of planning control causing immediate and irreparable harm to the environment or public safety;

**Medium priority (Category B)**
• Unauthorised development that has gone undetected and the statutory time limit for taking enforcement action will expire within the next six months.
• Development causing serious harm to the amenities of neighbours or to the environment;
• Development not in accordance with the approved plans, during the construction process.

Low priority (Category C)
• Any other allegations which have not been classified as high or medium priority, including:
  • Advertisements;
  • Businesses being operated from home;
  • Fences;
  • Satellite dishes;

Targets
5.5 The Council aims to deal with complaints within the following targets:

  Acknowledge complaint - within 3 working days.

  Undertake site visit:
  Category A – within 2 working days
  Category B – within 10 working days
  Category C – within 15 working days

  Days to close complaints – Target is 70% within 13 weeks

5.6 ‘Closing’ a complaint would take place if it is determined that: there is no breach; or that it is not expedient to take action if there is a breach; or if the serving of a formal notice (such as Enforcement Notice) is authorised; or if an application for the development (such as a planning application) is received. If enforcement action is authorised then the appropriate Notice is served and the matter pursued. If a planning application is submitted to regularise the breach but is subsequently refused then formal enforcement action has to be
considered and the case is re-opened. These options are discussed further below.

**Process of investigating an enforcement issue**

**Desktop Analysis**

5.7 Research will take place into the site in question to ascertain any relevant previous enforcement and planning history. This may involve interrogation of the Council's planning records, internet searches and liaison with other Council Departments or external agencies. It may be apparent from this initial analysis that no breach has occurred and the case will be closed and the complainant will be notified accordingly.

**Site visit**

5.8 If the initial assessment does not clarify whether a breach of planning control has occurred then a site visit will normally be required. We will aim to undertake these in accordance with the timeframes set out in this Enforcement Plan.

**Further investigation following the site visit**

5.9 On completion of the initial site visit, the findings will be assessed and a decision taken as to how the investigation will proceed. Each case will be judged on its own merits. There are cases where the initial site visit does not provide sufficient evidence to prove whether a breach of planning control has taken place. An example of this would include complaints of businesses operated from residential properties and whether this constitutes a material change of use. This will often depend on the level of intensity and this may not be immediately apparent from the initial site visit. Further investigation may involve additional site visits, documentary research, seeking advice from other services or agencies, seeking information from the person reporting the suspected breach of control, or the persons responsible for the land or building.

5.10 In some cases, the Council may ask the person reporting the suspected breach for further details, which could be in the form of a log setting out details
of when breaches occur. If the person reporting the suspected breach of planning control is unwilling to assist, this may result in the Council not being able to pursue the investigation due to insufficient evidence.

If we conclude that another agency or internal department is better placed to handle the issue, we will refer the complaint to the relevant authority and inform the complainant.

Planning Contravention Notice

5.11 Section 171C of the Town and Country Planning Act (as amended) provides the power to issue a Planning Contravention Notice (PCN). This can be served where a suspected breach of planning control exists. The PCN will require the recipient to provide the information requested within 21 days relating to the breach of planning control alleged. Therefore, it may be several weeks until the appropriate evidence can be collected. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine of £1,000. To knowingly provide false information on a PCN can result in a fine of up to £5,000.

Additional information can also be obtained by the service of a ‘Requisition for information’ notice, or by a Section 330 Notice.

**If no breach of planning control is established**

5.12 A significant number of investigations are closed as no breach of planning control can be established. This can occur for a number of reasons, for example where there is no evidence of the allegation; where the works do not require planning permission; or where the development already benefits from planning permission granted by the Council.

5.13 Where this is the case the complainant reporting the suspected breach of control will be notified either verbally or in writing that no further action will be taken. The complainant will be provided with an explanation of our reason(s) and the case will be closed. Cases will be re-opened and re-investigated if further evidence subsequently comes to light.

**Where there is a breach of planning control**
5.14 There is a common misconception that breaches of planning control are a criminal offence and should automatically attract enforcement action however, the NPPF clearly sets out that enforcement action is a discretionary power. It is for each local planning authority to determine when action is necessary and the type of action that is appropriate. In making these decisions the authority should be mindful of maintaining public confidence in the planning system.

5.15 A breach of planning control in itself is not sufficient reason to take enforcement action. *Whilst such action may be unlawful, as it is in breach of the Town and Country Planning Act, it is not illegal.* The Council must firstly decide, having given regard to policies contained within the Rotherham ‘Local Plan’, guidance contained in the National Planning Policy Framework (NPPF), and all other material planning considerations, whether or not it is ‘expedient’ to take formal action. Expediency is a test of whether the unauthorised activities are causing harm to the environment or amenity of the area. Therefore enforcement action is discretionary and each case must be assessed on its own merits. Most planning enforcement investigations will involve one of the following courses of action:

**Retrospective planning application invited**

5.16 Where officers consider that planning permission is likely to be granted for an unauthorised development, or that the imposition of conditions could reduce the harm to amenity, a retrospective planning application will be requested for the development. In determining retrospective planning applications the Council cannot refuse an application simply because the development has already been carried out. Many breaches of planning control occur because the applicant simply did not realise permission was required. A retrospective planning application enables the Council to regularise acceptable development without penalising the applicant.

Generally, the Council will not seek a retrospective planning application if it considers that the development is unacceptable. However, there are cases where it is initially unclear as to whether a development is acceptable in planning terms. Once an application is received it would allow for a full assessment of the planning merits of the case.
5.17 Should the retrospective application be refused the enforcement action will be considered as part of the determination of the application.

**Negotiation**

5.18 Where it is considered that the breach of planning control is unacceptable, officers will initially attempt to negotiate a solution without recourse to formal enforcement action, unless the breach is causing irreparable harm to amenity. Negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of unauthorised development.

In carrying out negotiations officers will have regard to the specific circumstances of the individual case. For example, where there is an unauthorised business activity, officers will consider whether relocation is possible and if so will seek to put a reasonable timescale in place that reflects the individual circumstances of that business.

5.19 Where the Council is unable to negotiate an acceptable solution within a reasonable timescale, formal action will be considered to prevent a protracted process.

**Not expedient to take action**

5.20 ‘Expediency’ is a test of whether the unauthorised activities are causing serious harm, having regard to the Development Plan policies and other material planning considerations, to justify further action. There are some cases where it would not be expedient for the Council to take enforcement action, for example, there may be cases where development requires planning permission but it is clear that retrospective planning permission is likely to be granted; or there may be a technical breach of planning control but that breach is so minor that it has no or very little impact on amenity, for example a domestic television aerial or the construction of a fence which is slightly higher than that allowed under permitted development rights.

While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice would
not be issued solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought.

5.21 Any action should also be proportionate to the breach. It would clearly not be proportionate to require the removal of an entire building or fence where a slightly lower structure could be constructed without permission. The expediency test for taking action would not be met in these cases.

5.22 In such circumstances the Council will seek to persuade an owner or occupier to seek permission. However, it is generally regarded as unreasonable for a council to issue an enforcement notice solely to remedy the absence of a valid planning permission if there is no significant planning objection to the breach of planning control and it is not proportionate to take action.

**Lawful use**
5.23 Section 171B of the Town and Country Planning Act (as amended) sets out time limits for taking enforcement action. The Council cannot serve a notice after four years where the breach of planning control involves building operations, or the change of use of any building to a single dwelling house. Other unauthorised changes of use and breaches of conditions are subject to a ten year time limit.

5.24 After these periods the Council cannot take action and the development becomes lawful. The landowner can apply for a Certificate of Lawful Existing Use or Development (CLEUD) after this period to regularise the situation. This involves providing evidence that proves, on the balance of probability, that the breach of planning control has occurred for the relevant time period.

5.25 Serving an enforcement notice in respect of a particular development stops the clock in relation to these time limits.

*Formal enforcement action is justified*
5.26 It is open to the Council to take formal action, where it is expedient to do so. The decision on what enforcement action should be taken will depend on the individual circumstances of the case.

5.27 A flow chart showing potential options in respect of a complaint is attached at Appendix 1 and the various enforcement powers available to the Council are summarised at Appendix 2.

6. FAILURE TO COMPLY WITH NOTICES

6.1 Where a notice has been served and has not been complied with, there are generally three main options available to the Council to attempt to resolve the breach.

**Prosecution**
6.2 The Council will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of a relevant Notice (which would include an enforcement notice; a listed building enforcement notice; a planning contravention notice; a breach of condition notice; or a stop notice.) However, before commencing any legal proceedings the Council needs to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

**Direct action**
6.3 Where any steps required by a relevant notice have not been taken within the compliance period the Council will consider whether it is expedient to exercise our powers to enter the land and take the steps to remedy the harm; and recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

**Injunction**
6.4 Where an enforcement notice has not been complied with, and the special circumstances of the case suggest direct action or prosecution would not be an effective remedy, we will consider applying to the Court for an injunction under
section 187B of the Town and Country Planning Act (as amended). An injunction can be applied for where there is clear evidence that a breach of planning control has happened or there is clear evidence that it is anticipated. Such action will only be considered if the breach, actual or anticipated, is particularly serious and is causing or likely to cause exceptional harm. Defendants risk imprisonment if they do not comply with a court order.

7. WHAT HAPPENS IF AN ALLEGATION IS MADE AGAINST YOU?

7.1 If a complaint is received that affects you then the first thing that will happen is either you will be contacted (where your details are known to the Council) or the site in question will be visited by a Council officer. The purpose of this visit is to establish the facts of the case and whether there is any basis to the allegations made. The officer will, where necessary, take measurements and photographs of the development or activity taking place. This site inspection may also be undertaken without any prior notification.

7.2 If there is a breach of planning control you will be advised of the details of the breach and what steps need to be taken to either rectify the breach or regularise the situation. If you have no involvement with the identified breach no action will be taken against you. You will be given a reasonable period of time (subject to the nature of the breach) to resolve any breach of planning control. If compliance is not secured through amicable negotiations or the submission of a retrospective planning application formal action may be instigated.

8. PROACTIVE COMPLIANCE

8.1 In addition to the Service’s role in reacting to complaints regarding alleged unauthorised developments or breaches of condition, the Council looks to provide a proactive approach where possible to ensure compliance with
planning permissions and other consents, though this is limited to available resources.

8.2 It should be noted that it is the responsibility of individual developers to comply with the conditions imposed on any planning permission. However, failure to comply can affect not only the quality of the environment in the district or the amenity of neighbouring properties but also undermine the reasons and justification for granting planning permission in the first instance. Proactive action encourages and enables compliance with conditions to safeguard that development remains acceptable in planning terms.

8.3 The benefits of proactive compliance can be felt by the Council, community and the development industry. However, resources are limited and the Council relies on the general public to notify it in respect of potential breaches.

9. POWER OF ENTRY ONTO LAND

9.1 Under the provisions of Section 196A the Town and Country Planning Act (as amended) officers have the right of entry onto land and buildings to ascertain whether there is or has been any breach of planning control on the land or any other land; to determine whether any of the powers conferred on a local planning authority should be exercised in relation to the land, to determine how any such power should be exercised and to ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land. Officers also have a right of entry to determine whether an enforcement notice should be issued on that or any other land.

9.2 Twenty four hours’ notice must be given for access to a residential property. If access is denied, or the matter is urgent, a warrant can be applied for from the Magistrates Court. Officers will exercise these powers where appropriate, particularly where their use is essential to the collection of evidence relating to an alleged breach of planning control. An obstruction of these powers is an offence which is subject to prosecution.
10. COMPLAINTS ABOUT THE SERVICE

10.1 If you are unhappy about the level of service you have received from Planning Services or how the process has been managed then you may firstly discuss your concerns with the Development Manager or take it further through the Council’s Corporate Complaints Procedure. If you remain unhappy then you may write to the Local Government Ombudsman who may investigate your concerns.
APPENDIX 1 – FLOW CHART OF POTENTIAL OUTCOMES FOLLOWING A COMPLAINT.
Report of Suspected Breach

Complaint logged

Desktop Research

Site Inspection

Further information required– possible use of PCN

Has a breach occurred?

Yes - time allowed for it to remedy itself.

No - case closed and complainant updated

Case closed and complainant updated

Immune from enforcement action – case closed. Option to apply for lawful development certificate

Yes, expedient to take enforcement action

Yes - not expedient to take enforcement action – case closed

Consider nature of breach, severity and urgency and select appropriate form of action

Non-compliance with enforcement action

Consider period of grace to enable compliance

Consider prosecution/works in default

Compliance achieved – closed

Acknowledgement and reference number given to complainant

Clear that no breach has occurred – case closed

Yes, expedient to take enforcement action

Yes - Planning application submitted to regularise the breach submitted– case closed (case would be re-opened if planning application subsequently refused).

Yes - Planning application submitted to regularise the breach submitted– case closed (case would be re-opened if planning application subsequently refused).

Requirements of enforcement action complied with – case closed

If partial compliance consider if sufficient – if so, case closed. If not;
APPENDIX 2 – POTENTIAL ENFORCEMENT OPTIONS

Enforcement Notice
Section 172 of The Town and Country Planning Act (as amended) allows the service of an enforcement notice where it is expedient to do so and one of the following has occurred: unauthorised operational development, material change of use or breach of condition.

The Council is required to serve enforcement notices on the owner, occupier and any other person with an interest in the land which is materially affected by the notice. An enforcement notice specifies the steps which we require to be taken, or the activities which the Council requires to cease, in order to remedy the breach.

The notice will specify time periods for compliance from the date on which the notice comes into effect. A notice comes into effect after a minimum period of 28 days following service. Appeals can be made against enforcement notice and these are dealt with by the Planning Inspectorate. Once the Planning Inspectorate has received a valid appeal, the enforcement notice has no effect until the appeal has been determined.

This is the normal means of remedying unacceptable development where the Council’s enquiries meet with no satisfactory response. The Council may choose to “under-enforce” to remedy a specific problem. In such circumstances the remaining building or use will be deemed to have planning permission when the Enforcement Notice has been complied with sufficiently. The penalty for non-compliance is currently up to £20,000 but there is no upper limit in the Crown Court.

All enforcement notices are placed on the Council’s enforcement register which is available to view on request.
Breach of Condition Notice

Section 187A of the Town and Country Planning Act (as amended) provides the power to serve a Breach of Condition Notice (BCN) where a planning condition has not been complied with. The BCN will specify the steps required to comply with the condition, the date that it takes effect and the time period for compliance. The period for compliance is a minimum of 28 days from the date the notice was served. There is no appeal to the Secretary of State against a BCN. As there is no right of appeal against a BCN and as it can only be used to secure complete compliance with a planning condition, “under-enforcement” is not an option. Also, as there are no powers for the Council to enter the land and carry out works, prosecution is the only means of enforcement. The maximum penalty on conviction is level 4 (currently £2500)

Listed Building Enforcement Notices

If the breach of planning control relates to a listed building, the Council will consider the expediency of serving a listed building enforcement notice and where appropriate, commence a prosecution in the Courts. The listed building enforcement notice will specify the reason(s) for its service, the steps required to remedy the breach, the date that it takes effect and the time period for compliance. There are no time limits for issuing listed building enforcement notices, although the length of time that has elapsed since the apparent breach is a relevant consideration when considering whether it is expedient to issue the notice.

Unauthorised works to a Listed Building is an offence in its own right. The Council will consider whether it would be expedient to prosecute for these works rather than issuing a notice on a case by case basis. A person who is found to carry out unauthorised works that affect the special architectural character or historic interest of a Listed Building can be prosecuted, and imprisoned for a term not exceeding 6 Prosecution months, or fined up to £20,000 or, on conviction by indictment, to an unlimited fine.
**Temporary Stop Notice**

Section 171E of the Town and Country Planning Act (as amended) provides councils with the power to serve a Temporary Stop Notice. A TSN can be issued without the need to issue an enforcement notice and is designed to immediately halt breaches of planning control for a period of up to 28 days by which time the Local Planning Authority can decide whether or not to serve an enforcement notice. There is no right of appeal against a Temporary Stop Notice and it is an offence to contravene such a Notice, with the maximum fine, on summary conviction, of up to £20,000. Compensation may be payable if the LPA later issues a lawful development certificate. Unlike a Stop Notice, it does not require an enforcement notice to be served first.

Whilst TSNs also carry some compensation provisions these are significantly lower than with a Stop Notice and therefore the risk to the Council is reduced. All Stop Notices are placed on the Council's enforcement register.

**Stop Notice**

Section 183 of the Town and Country Planning Act (as amended) provides for the service of a Stop Notice.

The Council can issue a Stop Notice where a breach of planning control is causing serious or irreparable harm and more immediate action is justified despite the cost of depriving a developer of the benefit of development during the appeal period. It can only be served if an enforcement notice has first been served. There is no right of appeal against a Stop Notice and it is an offence to contravene such a Notice, with the maximum fine, on summary conviction, of up to £20,000. However, a Stop Notice should only be served when the effects of the unauthorised activity are seriously detrimental to the amenities of occupiers of affected property. Furthermore, if the related Enforcement Notice is quashed on appeal, the Council may be liable to pay compensation for any financial loss resulting from the issuing of the Stop Notice.
**Planning Enforcement Orders**

The Localism Act introduced a new enforcement power in relation to time limits. This allows councils the possibility to take action against concealed breaches of planning control even after the usual time limit for enforcement has expired. The Council can, within six months of a breach coming to their attention, apply to the Magistrate’s court for a Planning Enforcement Order. A planning enforcement order would give the Council a further year to take action.

**Section 215 Notice**

The Council can serve an ‘amenity’ notice on the owner of any land or building which is in an unreasonably untidy condition and it considers has an adverse affect on the amenity of the area. This is done under section 215 of the Town and Country Planning Act 1990 (as amended). This notice is used to maintain and improve the quality of the environment, to assist in tackling dereliction and retaining land in a productive use as well as contribute to the regeneration of an area and respond positively to public concerns.

S215 Notices relating to residential properties/gardens are generally carried out by the Environmental Health Service, whilst those relating to commercial sites are generally carried out by Planning Service.

**UNAUTHORISED ADVERTS**

The display of advertisements without consent is an offence. Therefore, the Council has the power to initiate prosecutions without the need to issue a notice. Where it has been considered that an advertisement should be removed an offender will normally be given one written opportunity to remove the advertisement voluntarily. Failure to do so will normally result in further action being taken without further correspondence.

**Section 225 of the Town and Country Planning Act (as amended)**
Provides powers to remove or obliterate posters and placards. We will consider using these powers as appropriate as an alternative or in conjunction with prosecution action.

**Removal Notices**
Provide the power to seek removal of any structure used to display an advertisement. Where the notice is not complied with we may undertake the works in default and recover the expenses for doing so.

**Action Notices**
Can be used where there is a persistent problem with unauthorised advertisements and can specify measures to prevent or reduce the frequency of the display of advertisements on the surface. Again where the notice is not complied with the Council may undertake the works in default and recover the expenses for doing so.

**Power to remedy defacement of premises**
Where a sign has been placed on a surface that is readily visible from somewhere the public have access, and is considered by us to be detrimental to the amenity of the area or offensive, a notice may be issued requiring the removal or obliteration of the sign. Failure to comply with the notice will allow the Council to undertake the works in default and recover costs.

**Discontinuance Notice**
Require the removal of advertisements displayed with the benefit of deemed advertisement consent, i.e. an advertisement that would not normally require consent from the Council to be displayed.

**UNAUTHORISED WORKS TO TREES/HEDGEROWS**

The Town and Country Planning Act 1990 (as amended) requires appropriate consent to be gained for works to trees which are protected by a Tree Preservation Order (TPO) or within a Conservation Area. The Planning
Enforcement Service is responsible for the investigation of suspected breaches of this legislation.

An offence will be committed should these works be conducted without following the relevant procedures. Therefore, a prosecution can be sought without the requirement to issue a notice. However, such action would not remedy the harm caused. It is open to the Council to issue replacement notices, requiring trees to be replanted.

The Hedgerows Regulations 1997 protect most countryside hedgerows from being removed (including being uprooted or otherwise destroyed). They do not protect hedgerows that form the boundary between the countryside and residential/ commercial properties. A person who intentionally or recklessly removes, or causes or permits another person to remove, a hedgerow in contravention of the Regulations is guilty of an offence.

**Tree Replacement Notice**
Sections 207/211 of the Town and Country Planning Act (as amended) provide the powers to require replacement planting in relation to trees covered by a TPO/within a Conservation Area respectively.

**Hedgerow Replacement Notice**
Regulation 8 of the Hedgerow Regulations 1997 provide the powers to require replacement planting in relation to the unauthorised removal of a protected hedgerow.