

Planning Enforcement

HARM ASSESSMENT – PRIORITISATION SCHEME PROCEDURE FOR CLOSURE OF REPORTED BREACH OF PLANNING CONTROL INCIDENTS

Purpose

This document sets out the Council's Harm Assessment procedure in relation to the handling of alleged breach of planning incidents. It assesses the "planning harm" the incident is perceived to cause and provides a process for the "closure" of minor breaches of planning control.

Background

In the past when the Council considered an alleged breach of planning control the case was not closed until the breach of planning control was rectified. This resulted in the Planning Service continuing to use resources to pursue minor breaches of planning control that were not causing harm to public amenity and/or interest.

In 2009 a new procedure was introduced based on an assessment of harm.

The Scheme

The Harm Assessment Scheme is applied to incidents which are found to be a breach of planning control following site inspection. The scheme grades the "harm" of that breach against a series of scored planning criteria. The agreed level of harm (the score) is 6 and above (July 2011). Where the cumulative score is 5 and under it is not considered to be expedient to pursue the breach as the impact on public amenity and/or interest will be negligible. The case will be closed and advisory letters will be sent to both the offender and complainant. The property owner will also be advised of the need to rectify the situation, most usually through the submission of a retrospective planning application, as the breach that has occurred could affect any future sale of the property. The submission of an application will not, however, be monitored or pursued. Once all parties have been notified the Council will take no further action. This will not apply to those cases with a Harm Score of 5 or less where it is agreed by the Enforcement Manager (or equivalent authorised officer) in consultation with the area planning officer that the breach would not receive an unconditional grant of planning permission. In these instances the breach will be pursued to a successful conclusion.

Breaches of planning control that attract a score of 6 or more will be pursued by officers until matters are resolved either through negotiation or by taking formal action.

Harm Assessment will be applied to all incidents involving development. Advertisement Control, Amenity Notices and Tree/Hedgerow matters have different legislative requirements and will be dealt with separately.

Sixteen planning “harm” factors are set out in the harm assessment form dealing with factors such as, the nature of the breach, safety issues, policy matters, degree of harm etc.

Operational Aspects

The “Harm Assessment Form” will be completed by the investigative case officer within 20 working days of receipt of an incident. Where the alleged breach of control relates to a change of use of land the investigator should visit the site a minimum of three times in that twenty day period (if necessary) to establish if a breach of control is occurring (if the initial or second visit are inconclusive). The result of the harm assessment by the twentieth day will allow the decision on “harm” to be incorporated in the Service’s normal 21 day letter to complainants informing them of the Services findings and intended action or, where applicable, that no additional action is to be taken.

Conclusion

Since 2009 the Harm Assessment scheme has provided:

- A quantitative and qualitative assessment of harm to public amenity/interest
- A procedure that is open and transparent
- A quick and effective processing of incidents
- A flexible system to make efficient use of resources
- Equality of treatment of dealing with incidents

It has proven that the criteria and scoring is effective in identifying minor/trivial breaches of planning control, as well as providing an opportunity for it to be used in prioritising of other breaches of planning control to be progressed by the enforcement team.

It is recommended that the details of the scheme are reviewed on an annual basis.

**TENDRING DISTRICT COUNCIL, PLANNING SERVICES
HARM ASSESSMENT FORM**

TO BE COMPLETED BY AN OFFICER WHO HAS INSPECTED THE DEVELOPMENT

- All retrospective refusal of planning permission will automatically receive a full investigation – do not complete form.**
- Each new complaint will be allocated scores as set out below to assess its harm. The total will provide its harm score in which its priority will be based.
- Where there is no breach of planning control found, the file will be closed accordingly.

Points Allocation			Score
1	Is the breach:	Worsening/ongoing (1) Stable(0)	
2	Highway safety issue:	Yes (2) No (0)	
3	Other safety issues:	Yes (2) No (0)	
4	Causing a statutory or serious environmental nuisance	Yes(1) No(0)	
5	Complainant:	Immediate neighbour/staff(2) Other/Parish Council (1) Anonymous/malicious(0)	
6	Age of breach:	Within 6 months of immunity (2) Less than 3 month old(1) More than 3 month old(0)	
7	Major Plan Policy Breach	Yes (1) No (0)	
8	Is there harm:	Widespread(2) Local(1) None(0)	
9	Irreversible harm:	Yes(2) No(0)	
10	Flood Risk	Zone 3 (2) Zone 1-2 (1) NFR (0)	
11	Breach of a planning condition or Article 4 Direction:	Yes(1) No(0)	

12	Conservation Area (or adjacent to)	Yes(1) No(0)	
13	Listed building (or affecting the character or setting of)	Yes(1) No(0)	
14	Special exercise (please provide details)	Yes(1) No(0)	
15	Particularly sensitive site e.g. SSSI, AONB, Scheduled monument Listed Garden, Archaeological importance	Yes(1) No(0)	
16	Undesirable precedent (please provide details)	Yes(1) No(0)	
TOTAL POINTS (HARM SCORE)			

NB. Please see the attached Harm Assessment Flow Chart for those cases where the Harm Score is 5 or below but the Enforcement Manager, in consultation with the area planning officer, considers that the breach would not receive an unconditional planning permission.