

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee 4 June 2008
AUTHOR/S: Executive Director / Corporate Manager, Planning and Sustainable Communities

TEMPORARY STOP NOTICE AS A PLANNING ENFORCEMENT TOOL AMENDMENT TO THE CONSTITUTION

Purpose

1. Whilst the majority of breaches of development control are appropriate to be addressed by the conventional Enforcement Notice mechanism that will be familiar to members, it may in some circumstances be essential for the local planning authority to act more quickly than this process permits where immediate and serious harm is being caused. Part of the available enforcement toolkit is the ability to issue a temporary stop notice where this is the case. Many breaches of planning control occur outside normal working hours and at weekends. Therefore it would be appropriate for planning enforcement to have the same emergency cover as other environmental and public health protection services for those incidents where an immediate response is indicated.
2. The Council's Constitution does not presently contemplate the use of the temporary stop notice power, effectively denying the potential benefit of rapid official response to relevant breaches that the enabling legislation was intended to facilitate. Accordingly, the Scheme of Delegation requires amendment to delegate the authority to issue a temporary stop notice to appropriate officers where it is considered there has been a breach of planning control and it is necessary to safeguard the amenity of the area immediately.
3. This is not a key decision.

Background

4. Temporary stop notice legislation came into force on 7 March 2005 and is contained in the Town and Country Planning Act 1990, sections 171E to 171H as amended by section 52 the Planning and Compulsory Purchase Act 2004.
 - (a) A temporary stop notice differs from the normal stop notice powers because there is no requirement to wait for an enforcement notice to be issued.
 - (b) In addition, the effect of a temporary stop notice will be immediate as it will not be necessary to wait three days before the temporary stop notice takes effect or give reasons why the temporary stop notice will take effect immediately.
 - (c) The temporary stop notice will have effect for a period of up to 28 days. During this period, the local planning authority must decide whether it is appropriate to take conventional enforcement action.
 - (d) A person guilty of contravention of a temporary stop notice is liable, on summary conviction (i.e. before Magistrates), to a fine not exceeding £20,000; and on conviction on indictment (i.e. in the Crown Court), to an unlimited fine.
5. The activities that a temporary stop notice may prohibit include: a use of the land, which is ancillary, or incidental to the unauthorised main use of the land; or a particular activity taking place on only part of the land; or an activity which takes place on the land intermittently or seasonally.

- 6. However, a temporary stop notice may not prohibit the unauthorised use of a building as a dwelling house or the continued stationing of a caravan on land where it is the main place of residence of the occupier.

Considerations

- 7. Given the strict and immediate effect of a temporary stop notice, compensation may be payable to the person with an interest in the land where a notice is served if there is no breach of planning control; where planning permission has been granted for the development; the development benefits from permitted development rights; a lawful development certificate is subsequently issued for the development or the temporary stop notice is withdrawn for reason other than the grant of planning permission for the activity specified in the notice. Consequently, it will be appreciated there must be a high degree of confidence that a breach of control actually exists and that there is an immediate need for it to be enforced against in terms of the planning harm being caused before this remedy is employed.

Implications

8.	Financial	Compensation may be payable as outlined in paragraph 7 above.
	Legal	The Principal Solicitor and Corporate Manager for Planning and Sustainable Communities will acquire additional delegated powers as detailed in paragraphs 8(a) and 8(b) below.
	Staffing	No staffing implications arise save that officers may need to act outside the core business hours of the Council.
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	Risk Management	Compensation may be payable as outlined in paragraph 7 above.
	Equal Opportunities	Not applicable

Consultations

- 9. The Corporate Manager, Planning and Sustainable Communities and the Democratic Services Manager have been consulted.

Effect on Corporate Objectives and Service Priorities

10.	Work in partnership to manage growth to benefit everyone in South Cambridgeshire now and in the future
	Not applicable
	Deliver high quality services that represent best value and are accessible to all our community
	Delegation of the authority to issue a temporary stop notice will assist the Local Planning Authority in acting promptly to address cases where serious planning harm exists.
	Enhance quality of life and build a sustainable South Cambridgeshire where everyone is proud to live and work
	Proper application of planning controls benefit the whole community.

Conclusion / Summary

11. Such amendment to the Constitution will delegate the authority to issue a temporary stop notice to the specified officers. The effect of issuing a temporary stop notice will be to require the halt of the breach of control or the specified activity immediately. The benefit will be an improvement in the amenity of the neighbourhood or, at least, the arrest of any worsening of the situation in these terms.

Recommendations

12. That it be recommended to Council that the Council's Constitution be amended as follows:

- (1) That in respect of Table 3 of Part 3 of the Constitution, paragraph 3(5) there be added the following addition, after section 3(5)(b):

“3(5)(C) Ibid S.171E: Whether there appears to be a breach of planning control and whether it is expedient that the relevant activity should cease immediately – Temporary Stop Notice”

- (2) That in respect of Additional Delegated Powers (page 70), there be an amendment where highlighted in *italics* as follows:

“1. The Principal Solicitor and Corporate Manager for Planning and Sustainable Communities are individually authorised to issue and serve Enforcement Notices, Stop Notices and Temporary Stop Notices in connection with material changes of use of land and operational development associated with relevant caravan use in breach of planning control.”

Background Papers: the following background papers were used in the preparation of this report:

Constitution of South Cambridgeshire District Council
Section 171E-H Town and Country Planning Act 1990 as amended
Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005
Office of the Deputy Prime Minister (ODPM) Circular 02/2005

Contact Officer: Virginia Fu- Lawyer
Telephone: (01954) 713060