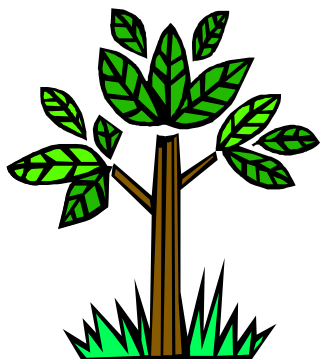


Special Controls



Introduction

There are certain controls and designations, which provide a greater degree of protection over valued parts of the environment. These cover individual buildings and structures, trees, natural habitats, advertisements and areas of quality in general. Planning controls can also sometimes limit harmful environmental effects.

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

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 which affects their character as buildings of architectural or historic 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.

An unlisted building which is under the threat of demolition may be subject to a building preservation notice. Any person can make such a request. The building

cannot be altered or demolished until it is decided whether the building should be statutorily protected. Buildings will be added to (and sometimes removed from) the list from time to time.

Listed buildings are graded according to their importance. Those which are "outstanding" (about 6%) are listed grade I or II* (star). The rest 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 village.

Their effect is similar to listed building control in that permission, known as 'conservation area consent' is required to demolish most buildings and structures within a conservation area.

South Cambridgeshire District Council has appraisals for some of its conservation

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areas. Others are being prepared. These act as a guide for development control 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 be refused.

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.

With all planning applications involving development in a conservation area, applicants must show that no harm will be caused to the character or appearance of the area.

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.

Green Belt

Some of the villages in South Cambridgeshire lie within the Green Belt which encircles the City of Cambridge. The Green Belt serves to control the urban expansion of the City and the merging of settlements around it. It also helps to enhance the visual quality of the area and the unique setting of the City.

Within the Green Belt, there is a strong presumption against development which is deemed to be "inappropriate". The extent of development that will be allowed is therefore restricted.

The construction of new buildings is mainly limited to agriculture and forestry; essential facilities for outdoor sport and recreation; limited extension, alteration or replacement of existing dwellings; limited infilling in those villages which are surrounded by the Green Belt but excluded from it; limited affordable housing and limited development of major existing developed sites.

Most other development is considered to be harmful to the Green Belt.

In considering an application for development in the Green Belt, the local planning authority should not approve inappropriate development except in "very special circumstances".

Where there is a need to show very special circumstances, the onus is on the applicant to do this. Because the circumstances need to be "very special", it will often be difficult to show they exist.

Trees

A Tree Preservation Order (TPO) can protect trees either individually, in groups, or over a wide area. It protects the tree from being topped, lopped, or felled or subject to any wilful damage.

The same degree of protection exists within a conservation area

Breach of a TPO or unauthorised works to trees in a conservation area is a criminal offence. The owner can be prosecuted or fined. In the case of a TPO, the offender can also be made to plant a new tree or trees.

Applications may be made to carry out works to protected trees. In considering a request, the health of the tree and its contribution to the area will be taken into account. This means that consent will sometimes be granted to remove protected trees.

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These considerations also apply when planning applications for buildings and other works affect trees.

In an emergency, or if the tree is dead, dying or dangerous, works can take place without prior consent of the local planning authority. The owner will still need to prove that the tree was dead, dying or dangerous.

A report from an arboriculturalist (tree specialist) will normally be required. Anyone carrying out such work is strongly advised to contact the Council beforehand, giving five days notice if possible.

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.

Some of the exclusions 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.

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

Environmental and Pollution Controls

Many 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 (Schedule 1 projects), and those which are likely to have significant effects on the environment. (Schedule 2).

Schedule 1 projects include heavy industrial uses and landfill sites for special wastes. Those in Schedule 2 include intensive livestock installations, mineral extraction, 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.

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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.

Separate regulations exist to control pollution, although there is a degree of overlap with planning controls. Planning authorities should mainly concern themselves with the impact of a development rather than the control of any processes or substances.

Nature Conservation Interests

There is a need to respect, retain and enhance areas with nature conservation interests. Identified sites in the District include Sites of Special Scientific Interest (SSSI) and County Wildlife Sites.

Certain plant and animal species, including all wild birds, are protected by law. Other animals are protected under their own legislation, such as badgers. Barn owls or bat roosts may occupy some barns. These buildings cannot be removed without first obtaining a licence from DEFRA (see Advice Note 11). Another protected species common in South Cambridgeshire are great crested newts

Where development is permitted, the Council can impose appropriate conditions to ensure the nature conservation value of a site is protected.

Article 4 Directions

Certain works, which would otherwise not require planning permission, can still be controlled. This is done by something called an Article 4 Direction. The purpose of the direction is to prevent potentially harmful development, which the local planning authority would normally be unable to prevent.

When such a direction is in force, planning permission must first be obtained. For a direction to remain in force, it must have the Secretary of State's approval.

An Article 4 direction will only be confirmed if the local planning authority can show that the development would threaten the amenity of the area.

An example of a direction, which has been used in the District, is the prevention of land being used for car boot sales.

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.