

10. Breaches of other types of consent

The Authority also deals with breaches of other consent regimes. These relate to advertisements, listed buildings and protected trees and are outlined below:

(a) Advertisements

The legislation concerned with advertisements is separate from that dealing with general planning matters and is contained within The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The Advertisement Regulations can be accessed via the following link:

<http://www.legislation.gov.uk/ukxi/2007/783/contents/made>

The Peak District National Park is designated as an Area of Special Control under Section 221(1) of the 1990 Act and consequently some specific restrictions apply to advertisements, over and above those that apply generally. Advice should therefore be sought from the Authority's Development Management Service, before any advertisements are displayed on a building or land.



Prosecution

The display of an advertisement without express consent may be an offence, subject to a maximum fine of £2500, and the Authority may prosecute the person displaying it. There is no need for an enforcement notice to be served.

The Authority will first give the offender an opportunity to remove the advertisement without the need to resort to a prosecution.

Prosecutions are more likely to be brought if the person who has displayed the advert is a prolific offender and/or the adverts are harmful to amenity or public safety.

The Localism Act 2011 inserted some new sections into the 1990 Act which give the Authority additional powers for dealing with unauthorised advertisements. These include issuing a 'Removal Notice' or an 'Action Notice'.

Removal Notice

Section 225A of the 1990 Act gives the Authority the power to remove structures (such as hoardings) which are being used for unauthorised advertisement displays.

The Authority would first serve a 'removal notice and would then be able to recover the expenses of removal if the structure was not removed by the time specified in the notice.

There is a right to compensation where any damage is caused to land or property, other than damage caused to the display structure itself or damage reasonably caused from removing the structure.

There is a right of appeal to a magistrate's court against a notice. Non-compliance with a 'removal notice' may be an offence.

Action Notice

Section 225B of the 1990 Act gives the Authority powers to serve an 'action notice.

The notice will require the owner or occupier of the land to carry out measures to prevent or reduce the frequency of the display of unauthorised advertisements.

There is a right of appeal to a magistrates' court against a notice. Non-compliance with a notice may be an offence.

Discontinuance Notice

Where an advert does not require consent the Authority can serve a Discontinuance Notice requiring removal if it considers that the advert causes a substantial injury to the amenity of the locality or is a danger to members of the public.

Recipients of a Discontinuance Notice have a right of appeal to the Secretary of State.

Help and Advice

The Advertisement Regulations are complex although a simplified version can be found in the document entitled 'Outdoor Advertisements and Signs: A Guide for Advertisers,' which is available at the following web address:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11499/326679.pdf

Advice can also be sought directly from our Development Management Service by calling the Customer Services Team in the first instance on 01629 816200, or by emailing your query to customer.services@peakdistrict.gov.uk

Further information can be accessed via the following link:

<http://planningguidance.planningportal.gov.uk/blog/guidance/advertisements/>

(b) Listed Buildings

The listed building enforcement provisions are set out in Sections 38 to 46 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The relevant legislation can be accessed via the following link:

<http://www.legislation.gov.uk/ukpga/1990/9/part/I/chapter/IV>

The main difference between general planning enforcement and listed building enforcement provisions is that there are no time-limits for issuing listed building enforcement notices (see section 9). Furthermore, the carrying out of works, including demolition in full or part of a listed building, without the necessary listed building consent or failing to comply with a condition attached to that consent may be a criminal offence (under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990) whether or not an enforcement notice has first been issued.

The maximum penalty for this offence is an unlimited fine and/or 2 years imprisonment.



It is important to know that if you buy a listed building with unauthorised works, you become liable for any listed building enforcement action in connection with the unauthorised works. Before buying a listed building you should ensure that all works that have been carried out to it have received the necessary consents.

Help and Advice

To find out if a building is listed or seek advice on other issues relating to listed buildings you can either contact our Cultural Heritage Team on 01629 816200 or email the Authority at customer.services@peakdistrict.gov.uk.

Alternatively you can check whether a building is listed using Historic England's 'national list'. This can be accessed via the following link:

<https://historicengland.org.uk/listing/the-list/>

Further general information on listed buildings can be found on the Authority's website via the following link:

<http://www.peakdistrict.gov.uk/looking-after/living-and-working/your-community/historic-buildings/listed>

(c) Demolition in Conservation Areas

The demolition of an unlisted building in a conservation area requires planning permission. It is an 'offence for a person to carry out or cause or permit to be carried out the demolition of an unlisted building within a conservation area without the required planning permission. Similarly it is also an offence for a person to fail to comply with any condition or limitation subject to which planning permission for relevant demolition is granted.

The maximum penalty for this offence is an unlimited fine and/or 12 months imprisonment

Help and Advice

To find out if a building lies within a Conservation Area please contact our Cultural Heritage Team on 01629 816200 or email your query to customer.services@peakdistrict.gov.uk.

Further information on Conservation Areas can be found on the Authority's website:

<http://www.peakdistrict.gov.uk/looking-after/living-and-working/your-community/conservation-areas>

(d) Works to Protected Trees

The primary legislation relating to tree enforcement provisions is set out in sections 197 to 214 of the 1990 Act whereas the tree preservation order system is governed by the Town and Country Planning (Tree Preservation)(England) Regulations 2012. Tree enforcement issues fall into the following two principal categories:

- unauthorised works to, damage to or removal of trees that are protected by Tree Preservation Orders or those which are situated within Conservation Areas; and
- breach of planning conditions relating to tree retention and protection.

The relevant legislation can be accessed below:

Primary Legislation - <http://www.legislation.gov.uk/ukpga/1990/8/part/VIII/chapter/I>

Regulations - <http://www.legislation.gov.uk/uksi/2012/605/contents/made>

Anyone who cuts down, uproots or wilfully destroys a protected tree, or who lops, tops or wilfully damages it in a way that is likely to destroy it, is liable, if convicted to an unlimited fine. The Courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.

Anyone who carries out unauthorised work to a protected tree that is not likely to be destroyed is liable, if convicted, to a fine of up to £2,500.

In addition to directly carrying out unauthorised works to protected trees, it may be an offence to cause or permit such works to occur.



Tree Replacement Notice

Whenever a protected tree has been removed in contravention of the legislation, or because it is dead, dying or dangerous, there is a duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon as is reasonably possible. The replacement tree is then subject to the same protection as the tree that was lost.

If the landowner fails to comply with this requirement, the Authority may serve a Tree Replacement Notice within a period of four years to ensure compliance. There are rights of appeal against Tree Replacement Notices.

Help and Advice

If you would like to establish if a tree is protected, either because of a Tree Preservation Order or because it is located in a conservation area, please call Customer Services on 01629 816200 or send an email to customer.services@peakdistrict.gov.uk.