

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)
ACT 1990
APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

**COPIES OF APPENDIX AVAILABLE FROM HEAD OF PLANNING AND PUBLIC
PROTECTION**

**DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE
INDEX TO REPORT**

Item No	Application No	Location and Proposal	Page No
1	43/2005/0567/PF	Trinity Methodist Church 4 Gronant Road Prestatyn Demolition of existing flat roofed section and erection of pitched roof extension	1
2	44/2005/0822/PF	Clwyd View Marsh Road Rhuddlan Rhyl Erection of extension to existing storage barn	3
3	45/2005/0477/PR	Former North Wales Saab Centre, Morville Garage 27-28 East Parade Rhyl Approval of design and external appearance of the buildings and landscaping submitted in accordance with Condition 1 of outline planning permission 45/2004/0043/PO	5
4	45/2005/0739/PF	8 Hazel Court Rhyl Erection of first-floor pitched-roof extension to side of dwelling and detached double garage with store over	9
5	45/2005/0763/PF	Land at Brookdale Road Rhyl Erection of 18 No. dwellings and construction of new vehicular/pedestrian access	12
6	47/2005/0431/PF	Toledo Cottage Rhualt St. Asaph Demolition of building and erection of swimming pool enclosure	19
7	01/2004/1612/PO	Abbey Garage Rhyl Road Denbigh Development of 0.23ha of land for residential purposes and alterations to existing vehicular access (outline application)	22
8	01/2005/0664/PF	Old Cinema Site Highgate Denbigh Demolition of existing building, erection of 13 flats for the elderly and construction of new vehicular/pedestrian accesses	30
9	01/2005/0665/CA	Old Cinema Site Highgate Denbigh Demolition of cinema building (Conservation Area consent)	37
10	02/2005/0333/PF	Former Council Car Park and Nursery Lon Parcwr Ruthin Proposed 2745 sq m food/non food store, including cafe and pharmacy, first floor for staff accommodation, external covered compound and canopy, ancillary service yard buildings and sprinkler tank and associated car parking area, with landscaping and associated works including realignment of road	40
11	10/2005/0103/PO	Land Adjacent To St Tysilio Church Bryneglwys Corwen Development of 0.26ha of land for residential purposes (outline application)	56

**DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE
INDEX TO REPORT**

Item No	Application No	Location and Proposal	Page No
12	10/2005/0678/PC	Rhoslydan Bryneglwys Corwen Continuation of use of agricultural land as storage and distribution depot in connection with road surfacing contractors with siting of steel containers, plant and ancillary equipment (retrospective application)	60
13	12/2005/0725/PF	Plot 3 Land adjoining Bronallt Clawddnewydd Ruthin Erection of detached dwelling and detached double garage	65
14	24/2005/0593/PF	Outbuildings At Pant Glas Uchaf Bontuchel Ruthin Conversion of redundant agricultural buildings to form 5 no. dwellings and associated works	68

ENFORCEMENT MATTERS

- (i) **ENF/ 2005/00044** : Land Adjoining Brackenwood, Village Road, Eryrys:
Change of use of land to form extension to garden.
- (ii) **ENF/2005/00045** : Land Adjoining Ashgrove, Mynydd Du, Eryrys :
Change of use of land to form extension to garden.
- (iii) **ENF/2004/00066** : The Grapevine, 87 High Street, Prestatyn
Installation of roller shutters, associated metal box and plastic canopy
- (iv) **ENF/2004/00069** : Female Associates, 102 High Street, Prestatyn
Installation of roller shutters, associated metal box
- (v) **ENF/2004/00073** : Regal Pictures, 136 High Street, Prestatyn
Installation of roller shutters, associated metal box

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2005/00044

LOCATION: Land at Hen Ardd and adjoining Brackenwood, Village Road, Eryrys, Mold

INFRINGEMENT: Change of use of land to form extension to garden

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy HSG 16 – Extensions to domestic gardens
Policy ENV 2 – Development affecting AONB/AOB
Policy ENV 5 – Site of local conservation importance
Policy REC 3 – Open space/recreation alterations

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

1. INTRODUCTION

1.1 This case was reported to the Planning Committee of the 20 July 2005 and Members deferred any decision in order to allow a site meeting to be arranged with the Local Member, the Environment Agency, Countryside Council for Wales, the Council's Planning Compliance Officer, County Ecologist, Drainage Officer and Legal Officer. The site meeting took place on the 28 July 2005 and the main issues discussed in respect of this case were as follows:

- The impact of works to the swallow hole at Brackenwood on the drainage of Hen Ardd and the need for a licence for the works;
- Speculative proposals for the provision of a recreation area at Hen Ardd and the potential impact of such proposals on the drainage and wildlife interest of the land;

1.2 The outcome of the site meeting has not in any way altered the original recommendation and this case is now reported back to Members for their consideration.

2. PURPOSE OF REPORT

2.1 This case is reported to Planning Committee to provide an enforcement assessment of the material planning considerations relating to this breach of planning control, following the refusal of a retrospective planning application by Members (contrary to Officer recommendation) and the authorisation of enforcement action.

3. BACKGROUND INFORMATION

3.1 This case was first investigated by Officers in July 2004, when proactively monitoring the compliance with planning conditions relating to the planning permission for the construction of the dwelling known as Brackenwood. During the construction of the

dwelling urgent drainage works were required in order to prevent the new dwelling from flooding following heavy and constant rainfall. The works undertaken have incorporated a minor extension to the domestic curtilage area along the rear boundary. The maximum encroachment into the adjoining land (known as Hen Ardd) is 3 metres, although this is less in relation to most of the extended garden area.

- 3.2 As a result of the enforcement investigation a retrospective planning application was submitted for the change of use of the land to form an extension to the domestic curtilage area, in order to try and regularise matters. The retrospective planning application was reported to Planning Committee in March 2005 with a recommendation to grant planning permission. Members refused the planning application (contrary to officer recommendation) for the following reason:

"The proposal would lead to an encroachment of domestic garden onto an area protected as open space and lying within a Site of Nature Conservation Interest and the Clwydian Range Area of Outstanding Natural Beauty. The proposal would therefore conflict with Policies ENV 2, ENV 5 and REC 3 of the Unitary Development Plan, through the encroachment of the garden area and the loss of the original boundary and drainage features of the Hen Ardd Common and set a precedent for proposals of a similar nature in the future."

- 3.3 Following the refusal of the planning application, the owners were formally advised that enforcement action had been authorised by Planning Committee to cease the use and return the land to its pre-existing condition. The owners have advised that they would submit another planning application, but no further application has been received to date.

4. ENFORCEMENT ASSESSMENT

- 4.1 National planning guidance contained in Technical Advice Note (Wales) 9 – Enforcement, states that enforcement action should be used as a last resort and only when it is expedient. In determining whether enforcement action is expedient, the relevant planning policies and any other material planning considerations relating to the breach of planning control must be assessed. The main planning considerations relating to this case are as follows:

The principle of the development

- 4.2 Policy HSG 16 states that the limited extension of domestic garden areas outside development boundaries will only be permitted subject to various criteria. The extension to the curtilage area is in this case limited, constituting an insignificant encroachment outside the development boundary. There is a specific reason for the extension to the curtilage area and associated works, relating to the prevention of flooding of the existing dwelling. The principle of the extension given its limited size and the need to prevent the flooding of the existing dwelling is considered acceptable subject to an assessment of all other material planning considerations.

Impact on the visual amenity of the AONB

- 4.3 The extension to the curtilage area has had the effect of straightening the rear boundary of the property and appears as a natural extension to the existing domestic curtilage area. In addition to the drainage works, the only other work undertaken has been the laying down of turf and some gravel. The extension to the curtilage area does not adversely impact on the character of the AONB and the appearance of this area is similar to its appearance prior to the change of use and associated works.

Residential amenity and flooding issues

- 4.4 The extension of the garden area to accommodate the required drainage works were necessary to prevent flooding in the interests of the residential amenities of the occupants of the dwelling at Brackenwood. The encroachment onto Hen Ardd has occurred due to specific circumstances relating to flooding and for no other personal

gain for the owners of Brackenwood. Any other issues relating to discharge of rainwater/surface water etc. are matters to be regulated and enforced by the Environment Agency, who raised no objections to the retrospective planning application.

Encroachment onto open space/recreation allocation and wildlife site

- 4.5 Given the limited size of the extension to the curtilage area, it is unlikely to compromise the overall designation of the recreational open space or the long term viability of the Hen Ardd Project Proposals. Furthermore, the limited nature of the encroachment onto the site of local conservation importance is unlikely to have an unacceptable harm on the conservation value of the site. The County Ecologist did not specifically object to the retrospective planning application.

5. SUMMARY AND CONCLUSION

- 5.1 There are clearly extenuating circumstances relating to this breach of planning control and there is a genuine reason and justification for the breach. The extension to the curtilage, given its limited scale and its appearance does not conflict with the relevant planning policies. Enforcement action cannot be justified on the basis that the breach of planning control has occurred.

- 5.2 It is considered that it would not be expedient to take enforcement action in this instance given the particular circumstances, the small scale and appearance of the garden extension. Furthermore, enforcement action would require re-instating the land to its previous condition which would be likely to result in Brackenwood again being at risk of flooding.

6. RECOMMENDATION

- 6.1 That authorisation be given for the following:
- (i) No further action is taken on the basis that it is not expedient to take enforcement action.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2005/00045

LOCATION: Land at Hen Ardd and adjoining Ash Grove Eryrys Road Mynydd Du Mold

INFRINGEMENT: Change of use of land to form extension to garden

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 1 – Development within development boundaries
Policy GEN 6 – Development Control Requirements
Policy HSG 16 – Extensions to domestic gardens
Policy ENV 2 – Development affecting AONB/AOB
Policy ENV 5 – Site of local conservation importance

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

1. INTRODUCTION

1.1 This case was reported to the Planning Committee of the 20 July 2005 and Members deferred any decision in order to allow a site meeting to be arranged with the Local Member, the Environment Agency, Countryside Council for Wales, the Council's Planning Compliance Officer, County Ecologist, Drainage Officer and Legal Officer. The site meeting took place on the 28 July 2005 and the main issue discussed in respect of the case was.

- speculative proposals for the provision of a recreation area at Hen Ardd and the potential impact of such proposals on the drainage and wildlife interests of the land;

1.2 The outcome of this site meeting has not in any way altered the original recommendation and this case is now reported back to Members for their consideration.

2. PURPOSE OF REPORT

2.1 This is reported to Planning Committee to provide an enforcement assessment of the material planning considerations relating to this breach of planning control, following the refusal of retrospective planning application by Members, contrary to Officer recommendation.

3. BACKGROUND INFORMATION

3.1 This breach of planning control was investigated by officers following a complaint received in July 2004, that the domestic curtilage of the dwelling known as Ash Grove had been extended without planning permission.

- 3.2 A site visit revealed that a triangular area of land measuring approximately 40 square metres had been fenced off to form an extension to the curtilage of Ash Grove.
- 3.3 Following the enforcement investigation the owners of Ash Grove submitted a retrospective planning application to change the use of this land to form an extension to the domestic curtilage area, in order to try and regularise matters. The application was reported to the Planning Committee of the 24 March 2005, with a recommendation that planning permission be granted. Members resolved to refuse planning permission contrary to Officer recommendation for the following reason:

“The proposal would lead to the encroachment of domestic garden onto an area designated as a Site of Nature Conservation Interest and on land utilised as part of the Hen Ardd Common. The proposal would thus be in conflict with Policy ENV 5 of the Denbighshire Unitary Development Plan, detract from the overall amenity of the common and set a precedent for proposals of a similar nature in the future.”

- 3.4 Following refusal of the retrospective planning application, the owners were formally advised that the Planning Committee had also authorised enforcement action. The owners have advised that they are considering an appeal against the refusal of planning permission, but no appeal has been lodged at present.

4. ENFORCEMENT ASSESSMENT

- 4.1 National planning guidance contained in Technical Advice Note (Wales) 9 – Enforcement of Planning Control, states that enforcement action should be used as a last resort and only when it is expedient. In determining whether enforcement action is expedient, the relevant planning policies and any other material planning considerations relating to the breach of planning control must be assessed. The main planning considerations relating to this case are as follows:

The principle of the development

- 4.2 The extension to the domestic curtilage area is within the defined settlement limits of Eryrys. The development therefore complies with Policy GEN 1 of the Unitary Development Plan which states that development will mainly be located within settlements. Policy HSG 16 is the only policy which is specific to extensions to domestic curtilages, but relates to the limited extension of domestic gardens outside development boundaries. The existing size of the plot on which Ash Grove is located is approximately 240 square metres, approximately 150 square metres of which is authorised domestic garden area. The additional area is small scale and would add only 40 square metres to the existing area. Given the size of the extended garden area and its location within the settlement limits of Eryrys, it is considered that the development is acceptable in principle.

Impact on visual amenity of AOB

- 4.3 The extended garden area, due to its size, its position in relation to the existing dwelling (Ash Grove) and the surrounding locality has no adverse impact on the character of the AOB or the adjoining AONB. The development therefore does not conflict with Policy ENV 2 or the general development control considerations of Policy GEN 6.

Impact on wildlife site

- 4.4 The extended garden area constitutes a minor encroachment onto a site of local conservation importance, where Policy ENV 5 states that development which would unacceptably harm the conservation value of such sites, will only be permitted where appropriate mitigation measures can be taken. The minor nature of the encroachment on to this site of local conservation importance is such that there would be no unacceptable harm on the conservation value of the site. Furthermore, the

County Ecologist did not object to the development when consulted on the retrospective planning application.

Impact on residential amenity

- 4.5 Given the scale of the extended garden area and its position in relation to nearby properties, there would be no adverse impact on the amenities of nearby residents.

5. SUMMARY AND CONCLUSION

- 5.1 The development which constitutes the breach of planning control complies with the relevant planning policies of the Unitary Development Plan. Enforcement action cannot be justified on the basis that the breach of planning control has occurred.
- 5.2 Having regard to all the material planning considerations relating to this breach, it is considered that it would not be expedient to take enforcement action given that the development complies with the relevant policies of the Unitary Development Plan.

6. RECOMMENDATION

- 6.1 That authorisation be given for the following:
- (i) No further action is taken on the basis that it is not expedient to take enforcement action.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2004/00066

LOCATION: The Grapevine 87 High Street Prestatyn

INFRINGEMENT: Installation of roller shutters, associated metal box and plastic canopy

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas

SUPPLEMENTARY PLANNING GUIDANCE

SPG 12 – Shop Fronts
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Technical Advice Note (Wales) 9 : Enforcement of Planning Control
Welsh office Circular 61/96 and 1/98 : Planning & The Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement against unauthorised development of land and related matters. The matters under consideration in this instance relate to the contravenor's rights to erect a security shutter and associated metal box and plastic canopy without planning permission. In this instance it is considered that these rights do not outweigh the objectives of the relevant planning policies which seek to ensure that developments preserve or enhance the character or appearance of the conservation area.

1. BACKGROUND INFORMATION

- 1.1 A survey of shops and other commercial properties within the Prestatyn High Street Conservation Area revealed that new roller shutters and associated metal box had been installed to the shop window of the property at 87 High Street, along with a plastic canopy.
- 1.2 Following an enforcement investigation it was established that the roller shutters and associated metal box as well as the plastic canopy were recent alterations to the property. The roller shutters, associated metal box and plastic canopy constitute operational development which materially affects the external appearance of the property, and which therefore require planning permission. No such permission has been sought or granted and as such these works are unauthorised and represent a breach of planning control.

- 1.3 It is noted that the Local Members, the Town Council and the Prestatyn & District Business Association were formally advised of various enforcement investigations in relation to properties within the Prestatyn High Street Conservation Area.
- 1.4 Having regard to the site's location in the Conservation Area and to all the relevant planning policies and guidance, the main consideration is whether the roller shutters and associated metal box as well as the plastic canopy preserve or enhance the character and appearance of the Conservation Area.
- 1.5 The roller shutters when rolled down are solid in appearance and are a stark and unsympathetic feature on the building. The metal box which houses the rolled up shutter projects beyond the existing shop front, and it is considered that even when the shutters are not in use (rolled down), the alterations to the shop front as a consequence of the roller shutters are also unacceptable. It is considered that the roller shutters and metal box do not form part of the integral design and appearance of the building and have a "tacked-on" appearance.
- 1.6 The plastic canopy is shiny and modern in appearance and is not sympathetic to the character of the building or the Conservation Area.
- 1.7 The roller shutter, metal box and plastic canopy do not preserve or enhance the character or appearance of the Conservation Area and are therefore unacceptable.
- 1.8 The owner of the business has not responded to any correspondence.
- 1.9 It is accepted that commercial premises require appropriate security measures, but this should not be to the detriment of the character or appearance of the property or the Conservation Area. Furthermore, there are automatic shutters on the market which are designed so as to ensure that they are sympathetic additions to buildings. Furthermore, there is no specific objection to the installation of canopies provided the materials and design are acceptable.
- 1.10 Members are reminded that authorisation was given to take enforcement action against 204 and 208 High Street, Prestatyn and that enforcement notices were served requiring the removal of roller shutters and metal boxes from both properties. The roller shutters and metal box have been removed from 208 High Street and will be removed from 204 High Street after the end of September 2005, following the dismissal of a planning appeal.
- 1.11 Therefore, following the action taken against 204 and 208 High Street, this report requests that Members support a consistent approach and authorise action in respect of the breaches of planning control at this property.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised roller shutters, metal box and plastic canopy have been installed within the last four years.
- 2.2 The metal roller shutter and metal box by virtue of the design, appearance and use are detrimental to the visual amenity and character of the property and neither preserve nor enhance the appearance or character of the surrounding Conservation Area.
- 2.3 The plastic canopy by virtue of its materials and appearance is detrimental to the usual amenity and character of the property and neither preserves nor enhances the appearance or character of the surrounding Conservation Area.

- 2.4 The metal roller shutter and metal box are contrary to Policies CON 5 and GEN 6 of the Denbighshire Unitary Development Plan, Supplementary Planning Guidance Note 12: Shop Fronts, Supplementary Planning Guidance Note 13: Conservation Areas and Welsh Office Circular 61/96 and 1/98; Planning and the Historic Environment.
- 2.5 The use of conditions as part of any grant of planning permission for the retention of the unauthorised roller shutter and metal box would not overcome these objections.

3. RECOMMENDATION

- 3.1 That authorisation is given for the following:
- (i) Serve an Enforcement Notice to secure the removal of the roller shutters, metal box and plastic canopy.
 - (ii) Instigate prosecution proceedings, or other appropriate action under the Planning Act, against any person or persons upon whom any Enforcement Notice, or other Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2004/00069
LOCATION: Female Associates, 102 High Street, Prestatyn
INFRINGEMENT: Installation of roller shutters and associated metal box

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas

SUPPLEMENTARY PLANNING GUIDANCE

SPG 12 – Shop Fronts
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Technical Advice Note (Wales) 9 : Enforcement of Planning Control
Welsh office Circular 61/96 and 1/98 : Planning & The Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement against unauthorised development of land and related matters. The matters under consideration in this instance relate to the contravenor's rights to erect a security shutter and associated metal box without planning permission. In this instance it is considered that these rights do not outweigh the objectives of the relevant planning policies which seek to ensure that developments preserve or enhance the character or appearance of the conservation area.

1. BACKGROUND INFORMATION

- 1.1 A survey of shops and other commercial properties within the Prestatyn High Street Conservation Area revealed that new roller shutters and associated metal box had been installed to the shop window of the property at 102 High Street.
- 1.2 Following an enforcement investigation it was established that the roller shutters and associated metal box were recent alterations to the property.
- 1.3 The roller shutters and associated metal box constitute operational development which materially affects the external appearance of the property, and therefore require planning permission. No such permission has been sought or granted and as such these works are unauthorised and represent a breach of planning control.
- 1.4 It is noted that the Local Members, the Town Council and the Prestatyn & District Business Association were formally advised of various enforcement investigations in relation to properties within the Prestatyn High Street Conservation Area.

- 1.5 Having regard to the site's location in the Conservation Area and to all the relevant planning policies and guidance, the main consideration is whether the roller shutters and associated metal box preserve or enhance the character and appearance of the Conservation Area.
- 1.6 The roller shutters when rolled down are solid in appearance and are a stark and unsympathetic feature on the building. The metal box which houses the rolled up shutter projects beyond the existing shop front, and it is considered that even when the shutters are not in use (rolled down), the alterations to the shop front as a consequence of the roller shutters are also unacceptable. It is considered that the roller shutters and metal box do not form part of the integral design and appearance of the building and have a "tacked-on" appearance.
- 1.7 The roller shutters and metal box do not preserve or enhance the character or appearance of the Conservation Area and are therefore unacceptable.
- 1.8 The owner of the business has not replied to any correspondence and the shop is now vacant.
- 1.9 It is accepted that commercial premises require appropriate security measures, but this should not be to the detriment of the character or appearance of the property or the Conservation Area. Furthermore, there are alternative shutters on the market which are designed so as to ensure that they are sympathetic additions to buildings.
- 1.10 Members are reminded that authorisation was given to take enforcement action against 204 and 208 High Street, Prestatyn and that enforcement notices were served requiring the removal of roller shutters and metal boxes from both properties. The roller shutters and metal box have been removed from 208 High Street, and will be removed from 204 High Street after the end of September 2005, following the dismissal of a planning appeal.
- 1.11 Therefore, following the action taken against 204 and 208 High Street, this report requests that Members support a consistent approach and authorise action in respect of the breach of planning control at this property.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised roller shutter and metal box have been installed within the last four years.
- 2.2 The metal roller shutters and metal box by virtue of the design, appearance and use are detrimental to the visual amenity and character of the property and neither preserve nor enhance the appearance or character of the surrounding Conservation Area.
- 2.3 The metal roller shutters and metal box are contrary to Policies CON 5 and GEN 6 of the Denbighshire Unitary Development Plan, Supplementary Planning Guidance Note 12: Shop Fronts, Supplementary Planning Guidance Note 13: Conservation Areas and Welsh Office Circular 61/96 and 1/98; Planning and the Historic Environment.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the unauthorised roller shutters and metal box would not overcome these objections.

3. RECOMMENDATION

- 3.1 That authorisation is given for the following:

- (i) Serve an Enforcement Notice to secure the removal of the roller shutters and metal box.
- (ii) Instigate prosecution proceedings, or other appropriate action under the Planning Act, against any person or persons upon whom any Enforcement Notice, or other Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2004/00073
LOCATION: Regal Pictures 136 High Street Prestatyn
INFRINGEMENT: Installation of roller shutters and associated metal box

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas

SUPPLEMENTARY PLANNING GUIDANCE

SPG 12 – Shop Fronts
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Technical Advice Note (Wales) 9 : Enforcement of Planning Control
Welsh office Circular 61/96 and 1/98 : Planning & The Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement against unauthorised development of land and related matters. The matters under consideration in this instance relate to the contravenor's rights to erect a security shutter and associated metal box without planning permission. In this instance it is considered that these rights do not outweigh the objectives of the relevant planning policies which seek to ensure that developments preserve or enhance the character or appearance of the conservation area.

1. BACKGROUND INFORMATION

- 1.1 A survey of shops and other commercial properties within the Prestatyn High Street Conservation Area revealed that new roller shutters and associated metal box had been installed to the shop window of the property at 136 High Street.
- 1.2 Following an enforcement investigation it was established that the roller shutters and associated metal box were recent alterations to the property.
- 1.3 The roller shutters and associated metal box constitute operational development which materially affects the external appearance of the property, and therefore require planning permission. No such permission has been sought or granted and as such these works are unauthorised and represent a breach of planning control.
- 1.4 It is noted that the Local Members, the Town Council and the Prestatyn & District Business Association were formally advised of various enforcement investigations in relation to properties within the Prestatyn High Street Conservation Area.

- 1.5 Having regard to the site's location in the Conservation Area and to all the relevant planning policies and guidance, the main consideration is whether the roller shutters and associated metal box preserve or enhance the character and appearance of the Conservation Area.
- 1.6 The roller shutters when rolled down are solid in appearance and are a stark and unsympathetic feature on the building. The metal box which houses the rolled up shutter projects beyond the existing shop front, and it is considered that even when the shutters are not in use (rolled down), the alterations to the shop front as a consequence of the roller shutters are also unacceptable. It is considered that the roller shutters and metal box do not form part of the integral design and appearance of the building and have a "tacked-on" appearance.
- 1.7 The roller shutters and metal box do not preserve or enhance the character or appearance of the Conservation Area and are therefore unacceptable.
- 1.8 The owner of the business has stated that the roller shutters are a necessity to ensure appropriate security for the premises and states that the shop window has been smashed on numerous occasions. It is accepted that commercial premises require appropriate security measures, but this should not be to the detriment of the character or appearance of the property or the Conservation Area. Furthermore, there are alternative shutters on the market which are designed so as to ensure that they are sympathetic additions to buildings.
- 1.9 Members are reminded that authorisation was given to take enforcement action against 204 and 208 High Street, Prestatyn and that enforcement notices were served requiring the removal of roller shutters and metal boxes from both properties. The roller shutters and metal box have been removed from 208 High Street, and will be removed from 204 High Street after the end of September 2005, following the dismissal of a planning appeal.
- 1.10 Therefore, following the action taken against 204 and 208 High Street, this report requests that Members support a consistent approach and authorise action in respect of the breach of planning control at this property.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised roller shutters and metal box have been installed within the last four years.
- 2.2 The metal roller shutters and metal box by virtue of the design, appearance and use are detrimental to the visual amenity and character of the property and neither preserves nor enhance the appearance or character of the surrounding Conservation Area.
- 2.3 The metal roller shutter and metal box are contrary to Policies CON 5 and GEN 6 of the Denbighshire Unitary Development Plan, Supplementary Planning Guidance Note 12: Shop Fronts, Supplementary Planning Guidance Note 13: Conservation Areas and Welsh Office Circular 61/96 and 1/98; Planning and the Historic Environment.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the unauthorised roller shutters and metal box would not overcome these objections.

3. RECOMMENDATION

- 3.1 That authorisation is given for the following:

- (i) Serve an Enforcement Notice to secure the removal of the roller shutters and metal box.
- (ii) Instigate prosecution proceedings, or other appropriate action under the Planning Act, against any person or persons upon whom any Enforcement Notice, or other Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

**RESIDENTIAL CONVERSION OF RURAL BUILDINGS
TO DWELLINGS**

1. PURPOSE OF REPORT

- 1.1 To advise Members on the interpretation of policies relating to the residential conversion of rural buildings to dwellings.

2. BACKGROUND

- 2.1 Planning policies at national and local level support the reuse of rural buildings for business purposes rather than as dwellings. This approach is set out in Planning Policy Wales (March 2002) at paragraphs 7.6.9 to 7.6.11 and Policy HSG 9 of the Denbighshire Unitary Development Plan. Supplementary Planning Guidance Note No. 16 – Conversion of Rural Buildings provides further interpretation of Policy HSG 9.
- 2.2 These policies require the application of an employment test, before allowing conversion of such buildings to residential use, indicating that sufficient and reasonable attempts have been made to secure a business use either for the whole of the building or as the predominant use in combination with residential.
- 2.3 The employment test includes an expectation that a marketing exercise will be undertaken through advertisement and notification as a potential employment use.
- 2.4 Following adoption of the Unitary Development Plan, the employment test requirement was imposed on planning applications for conversion to residential use. This resulted in one of the following - information eventually being supplied demonstrating that the employment test had been met i.e. that the site had been marketed without success; applications being withdrawn until information was available ; or applications being refused as the employment test had not been met. However, there have been very few examples of positive proposals for employment use coming about because of the policy or indeed business uses being implemented in such buildings.

3. COMMENTS ON INTERPRETATION OF POLICY

- 3.1 The application of the employment test has been discussed with colleagues from Development Services. Development Services do not consider that the policy is likely to result in many business uses coming forward due to locational and cost factors. New and expanding businesses prefer purpose built accommodation in the larger settlements and employment areas within the County. Applicants who have carried out the employment tests have been reluctant to do so and the commitment to active and rigorous marketing appears to be limited.
- 3.2 Taking into account the above, Officers have recently not insisted on the full employment test being fulfilled on all such applications unless colleagues in Development Services, upon consultation of the application, consider the building to have the potential for business and commercial uses. This came to light at the last Planning Committee on a proposal for conversion of a building to a dwelling. In view of Members concerns this report seeks to clarify the interpretation of policy.
- 3.3 National and local planning policies are still relevant and need to be taken into account. However, in view of the material considerations outlined above, the weight being given to the policy and the tests is considered to have diminished over time since the issuing and adoption of the policies three years ago in 2002.
- 3.4 Whilst officers consider that the employment test should not be applied in full, it is still considered that a supporting statement should be submitted with any application for conversion of rural buildings to residential use, stating why the building is not considered suitable for employment use and whether any marketing or interest has been shown for employment uses. This would allow the employment issue to be taken into account but not given the same emphasis as previously. However, should colleagues in Development Services consider any proposed rural building to be potentially viable for commercial or business uses, applicants will be expected to meet the full criteria of the policy, including the marketing test.
- 3.5 Preparation of the Local Development Plan will allow relevant policies to be formulated reflecting existing and emerging circumstances. Issues such as the use of such buildings for affordable housing would be considered as part of this process.

4. RECOMMENDATION

- 4.1 That Members agree the interpretation of the policies as set out above.

A REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

DATE OF SITE VISITS

1. PURPOSE OF REPORT

- 1.1** To advise Members of the likely date of any Site Visits requested by the Planning Committee.

2. DATE OF THE SITE VISITS

- 2.1** In consultation with County Clerk's Department, it has been decided that the afternoon of Friday 9th September 2005 is most suitable. This date has been provisionally booked.
- 2.2** You are advised, therefore, that any site visits arranged today will take place on **Friday 9th September 2005**.

3. MEMBERSHIP OF THE SITE VISIT PANEL

- 3.1** The membership of the Site Panel will be:
The Chair and Vice Chair, the Local Member(s) and a representative of the relevant Town or Community Council

4. RECOMMENDATION

- 4.1** That Members agree to the Site Visits being held on **Friday 9th September 2005**

**Decisions Made by the Head of Planning and Public Protection
under
Delegated Powers
1st - 31st July 2005**

Item For Information

This is a list of applications where the decision has already been made under delegated powers. If you wish to discuss the application/decision please contact the Case Officer.

DECISION TYPES

- | | |
|-----------------|------------------------------------------------------------------------------------------------------------------------------------|
| GRANT | - grant planning permission |
| REFUSE | - refuse all types of application |
| APPROVE | - approve reserved matters or condition |
| CONSENT | - grant listed building, conservation area, or advert consent |
| DEEMED | - does not require advert consent |
| NO OBJ | - no objection to works to tree(s) in conservation area |
| NOT REQ | - proposal does not require permission/consent |
| DETERMIN | - determine that prior approval is not required or is granted on determination application (certain telecom or agricultural works) |
| P DEV | - proposal found to be permitted development after receipt |
| WDN | - application withdrawn by applicant |
| INVALID | - application found to be invalid |
| CERTIFY | - Certificate of lawful use issued |
| RCERTIFY | - refuse to issue certificate of lawful use |

COPIES OF APPENDIX AVAILABLE FROM HEAD OF PLANNING AND PUBLIC
PROTECTION