



Fact Sheet 9 Other Planning Issues Relating to an Airfield – Enforcement, Lawful Development Certificates & Permitted Development

Enforcement

If development (an engineering or building operation or a change of use) is carried out without planning permission the planning authority **may** take enforcement action to remedy this breach of planning control.

The planning authority may first serve a 'Planning Contravention Notice' seeking information before taking action. This should be completed – failure to do so is an offence. There are then four possible courses of action open to the planning authority:

- a. Do nothing
- b. Serve a breach of Condition Notice – this relates to a failure to comply with a planning condition attached to a planning permission and is an alternative to an enforcement notice – if this notice is not complied with by the stated date this is an offence and prosecution may be brought
- c. Serve a Stop Notice – this is the most draconian step and means the activities referred to must be halted immediately. There is no right of appeal and failure to comply leads to prosecution
- d. Enforcement Notice - this may be addressed by:
 - Submitting a planning application to regularise the development (see Fact Sheet 7 (Planning, Part 3). If you agree to submit an application the planning authority will put the enforcement proceedings on hold.
 - Appealing against the enforcement notice – which must be within 28 days. The grounds for an appeal are set out in legislation. These are:
 - i. That planning permission ought to be granted for the development
 - ii. The alleged matters do not constitute a breach of planning control
 - iii. The alleged breach of planning control has not taken place
 - iv. At the date when the notice was issued no enforcement action could be taken (the building or engineering operations were carried out more than 4 years ago or the change of use occurred more than 10 years ago.
 - v. The notice was not properly served
 - vi. The steps set out to remedy the breach are excessive
 - vii. The period for compliance is too short.

Lawful Development Certificate

An application for a LDC can be made to the planning authority to seek to confirm if an existing use of land or some operational development is lawful or some proposed development would be lawful.



This may apply if enforcement action is being taken or for example to demonstrate to a third party that no enforcement action could be taken against the site.

This situation is most likely to occur when activities have been going on without a specific planning permission being granted. As noted above, there are time limits which make the development immune from enforcement action – four years for any building or engineering operations and ten years for any other development – such as a change of use of the land. Detailed historic record information is needed to prove the case a LDC application.

Permitted Development

Some GA sites may be able to use 'permitted development' rights to undertake development. To do this the airfield must seek confirmation from the Civil Aviation Authority that it may be certified as a 'Statutory Undertaker'. This requires annual turnover to exceed £1m in at least two of the previous three financial years (Part 5 of the 1986 Airports Act).

Permitted development rights under Schedule 2, Part 8, Class F of the Town and Country Planning General Permitted Development Order (GPDO) 2015 enable:

'The carrying out on operational land by a relevant airport operator or its agent of development (including the erection or alteration of an operational building) in connection with the provision of services and facilities at a relevant airport.'

There are a number of exceptions - probably most relevant being the construction or extension of a runway (also excepted is the construction of a passenger terminal in excess of 500 sq.m., extension or alteration of a passenger terminal by more than 15%, non-operational buildings and the alteration or reconstruction of a non-operational building where its design or external appearance would be materially affected).

Permitted development rights also cover certain details of air traffic services.

The use of permitted development rights – for example for new hangars – can be very helpful in saving time and cost. There must, however, be 'consultation' with the local planning authority unless the work is either urgently needed for the efficient running of the airport or the proposed building or structure does not exceed 4m in height and 200 cubic metres capacity. (Being a statutory undertaker also reduces the burden of dealing with any Tree Preservation Orders.)

General Aviation Awareness Council
Skimmingdish Lane, Bicester, Oxfordshire, OX26 5HA

*This is one of a series of Fact Sheets available from the GAAC.
The planning system is not straightforward. Local policies and concerns vary across the country and as each airfield is unique, interaction with the planning system needs to be tailored to fit. If your airfield has a particular issue or if you would like further information, please contact the above address or see our website at www.gaac.org.uk*