



PLANNING ENFORCEMENT LOCAL ENFORCEMENT PLAN

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1. Introduction

Although planning enforcement is discretionary and not a mandatory function an effective planning enforcement service can help to maintain public confidence in the planning system. Timely enforcement action can prevent a breach of planning control from becoming well established and bring sustained environmental harm to an end.

Enforcement action however is not a means to punish an individual or organisation for breaching planning control, regardless of whether the breach was carried out deliberately or in ignorance. It cannot be used to control the activities of errant or unpopular developers, to rectify minor or insignificant technical breaches of planning control, nor as a means of furthering the interests of one party over another in neighbour or commercial disputes.

In accordance with National policy on enforcement this Local Enforcement Plan identifies the priorities for enforcement action. This enables the Council's enforcement resources to be put to the best use in dealing with breaches of planning control and to ensure that enforcement action is focused on the most serious breaches which are causing greater harm. It also seeks to provide transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers.

2. Key stages of investigation

The key stages are summarised below and the time taken for each stage will vary depending on the nature of the alleged breach of planning control:

- Receipt of report of breach
- Decision whether reported matter should be investigated
- Site visit and officer investigation
- Initial assessment – whether to invite application, seek agreement from Ward Member to close, whether negotiations are appropriate.
- Invitation of application (where appropriate)
- Formal action, or decision to close.

3. Reasons for not investigating cases or for closing cases

A new enforcement case will not be raised if the information submitted with the initial report is sufficient for Officers to confirm that there is no breach of planning or if the matter does not fall within the list of Priorities for investigation set out in Section 10 of this document.

Enforcement investigations can be closed for several reasons, such as:

- there is no breach of planning control
- planning permission is not required
- it is permitted development
- the breach is rectified (by negotiation)
- planning permission has been granted retrospectively

- the development is lawful (due to time elapsed)
- it is a minor technical breach which does not warrant formal action
- it is not expedient to take action (not causing unacceptable harm).

Where a breach has been identified and it is not considered necessary to invite an application or where it is not expedient to take formal action, the ward member will be consulted on whether to close the case

If the Ward Member does not agree that the case should be closed the decision will be made in accordance with the Scheme of Delegation.

4. Negotiations/Inviting applications

In accordance with government guidance the Council will initially try to resolve a breach of planning by giving the contravener fair warning and by seeking to resolve the issue by negotiation, and have them remove the unauthorised development, cease the activity voluntarily or comply with the planning requirements.

In some instances it may be appropriate to invite a retrospective application to regularise a development or to make a development acceptable by adding planning conditions.

Applications will generally not be invited for breaches relating to householder development or other minor development where the development is considered acceptable in planning terms and there is no need to control the development further by the imposition of conditions.

Where an application is invited and then submitted the enforcement case will remain open pending the outcome of the planning application.

Only where negotiations fail to secure a satisfactory solution will formal action be considered. The Council will try to avoid the negotiations becoming protracted where there is a requirement to make the development acceptable or for a use to cease.

5. Expediency

Whilst the Council does not condone breaches of planning control, it is not obliged to take action against an identified breach. Even when unauthorised development has been identified not all breaches will be materially harmful and it will not always be expedient for the Council to pursue formal action.

Breaches of planning control can be deliberate, accidental, carried out in ignorance or on the basis of poor or inaccurate advice. Neither the explanation of how the breach came to occur nor the identity of the person responsible can have any bearing on the approach the Council takes.

Once a breach of planning control has been established a decision must be made on whether it is considered expedient to take formal action. The Council's decision on expediency, is informed by a number of considerations that may include:

- Is the development contrary to national and/or local planning policy?

(including National Planning Policy Framework, Core Strategy and Neighbourhood Development Plan policies)
- Is the development acceptable in respect of all other material considerations?
- If an application was submitted for the development, prior to it being carried out, is it likely to have been granted?
- Is the breach causing unacceptable harm to public amenity?
- Is the breach unacceptably affecting existing land, use or buildings which merit protection in the public interest?

Taking enforcement action must be in the public interest. Enforcement action will not be taken simply because a breach has occurred.

6. Tools for Enforcement

There are a number of enforcement tools available to a Local Planning Authority. The type of enforcement action taken must be proportionate to the seriousness of the breach and the harm being caused.

Further information regarding planning enforcement and the enforcement tools available to Councils can be found on the government website <https://www.gov.uk/guidance/ensuring-effectiveenforcement>.

The majority of types of formal action can be taken under delegated powers without the need for the formal agreement from the relevant Ward Member. For those cases where agreement is required and the Ward Member does not agree to action, the decision will be made in accordance with the Scheme of Delegation as set out in the Council's Constitution.

A copy of the Constitution can be viewed on the Council's website.

7. Keeping parties informed

The Council will acknowledge reports of alleged breaches where sufficient information has been received to identify the breach. Thereafter, it will update complainants on the progress of its investigation on a case by case basis.

As a minimum the Council will advise complainants of all key decisions that it takes such as inviting an application, recommending formal enforcement action or closing a case.

8. Monitoring

In addition to reacting to reports of alleged breaches of planning, the Council is committed to proactive monitoring of large scale developments. It will seek to ensure that all pre-commencement conditions are discharged before development starts on site and will also monitor compliance with conditions relating to Construction Management Plans and Traffic Management Plans.

The enforcement team will investigate reports of failure to comply with clauses contained within Section 106 agreements linked to planning permissions. These types of cases will be dealt with in consultation with the Councils Solicitors.

The enforcement team will also assist with the monitoring of compliance with CIL Stop Notices issued under the Community Infrastructure Levy Regulations.

9. Review

To ensure that the enforcement function is appropriately focussed the key elements of this Local Enforcement Plan will be reviewed.

10. Priorities

To make the most effective use of resources, new reports of alleged breaches will be prioritised for an initial assessment of seriousness upon receipt. Enforcement investigations and action will be focused on the most serious breaches.

There are three levels of enforcement priority as set out in the following table.

Category	Type of reported breach
Critical	Where irreversible harm is likely to be caused if the Council does not act immediately
	Ongoing or recent works to listed buildings or structures
	Ongoing or recent works to trees in conservation areas or protected by a tree preservation order
Significant	Where an application for planning permission would not be supported in principle for the development Where there is significant harm caused to the residential amenity of the area or to highway safety
	Breaches of conditions relating to live sites where condition relates to the following <ul style="list-style-type: none"> 1. Construction Management Plans and/or Traffic Management Plans 2. Tree protection 3. Highway conditions
Desirable	Smaller scale breaches which do not result in significant immediate or irreversible harm
	Development not in accordance with approved plans where the changes are considered to have an impact on residential amenity or compromise the design quality of a development
	Breaches of conditions which seek to protect the amenity of neighbours
	Operational Development or changes of use which have an adverse impact on residential amenity, the landscape or heritage assets
	Complaints regarding untidy land where the site is within a Conservation Area or affects the setting of a Listed Building

11. How to report a breach of planning control

Guidance on how to report a breach of planning control is available on the Council's website. The Council will not investigate reports where insufficient information has been supplied to substantiate the alleged breach.

The complainant will be advised if insufficient information has been supplied and given the opportunity to provide more evidence to substantiate the allegation or the seriousness of the alleged breach.

12. Privacy Statement

Anonymous complaints will not be investigated.

The Council has published its Privacy Notice which sets out how data will be handled and made available to the public. A copy of the latest version of the Privacy Notice can be viewed on the Council's website.

13. Flow chart

The flowchart shows the key stages involved in the enforcement process. The time taken for each stage will vary depending on the nature/complexity of the reported breach and the degree of planning harm arising from the reported unauthorised development.



Planning Enforcement

RECEIPT

Is there sufficient information to substantiate breach

No

Decline to investigate

Yes

What Category of Breach

If not one of 3 categories

Decline to investigate

If one of 3 categories

ACKNOWLEDGEMENT & recording of case

SITE VISIT & INVESTIGATION

INITIAL PLANNING ASSESSMENT

Should an application be invited

No

Close with agreement of WM

Yes

Invite application
(2 months to submit)

NEGOTIATION (If appropriate)

AWAIT DETERMINATION OF APPLICATION

Application approved

Yes

Close case (no agreement required)

No

FORMAL ASSESSMENT FOR ACTION

Is action considered necessary and expedient

No

Close with WM agreement

Yes

Seek WM agreement where necessary

REGULATORY COMMITTEE

Where Ward Member does not agree to case being closed or action being taken

FORMAL ACTION