



# PLANNING ENFORCEMENT LOCAL ENFORCEMENT PLAN

**Published October 2021  
Revision January 2026**

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## **1. Introduction**

Although planning enforcement is discretionary and not a mandatory function an effective planning enforcement service is essential 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 and the types of alleged breaches of planning control that will be investigated. 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 and complexity of the alleged breach of planning control:

- Receipt of report of breach
- Decision whether reported matter should be investigated
- Categorise Breach
- 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
- Potential further action if any formal Notice is not complied with.

## **3. Priorities**

To make the most effective use of resources, new reports of alleged breaches will be categorised for prioritisation based upon an initial assessment of seriousness. The assessment of seriousness will be undertaken by Enforcement Officers, and a Prioritisation Category will be assigned for each breach. 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.

Prioritisation	Type of reported breach
<p><b>Urgent</b></p> <p>(These cases will be investigated within 24hrs of receipt)</p>	<p><b>Where irreversible harm is likely to be caused if the Council does not act immediately</b></p>
	<p>Ongoing or recent works to listed buildings or structures</p>
	<p>Ongoing or recent works to trees in conservation areas or protected by a tree preservation order</p>
	<p>Unauthorised removal of hedgerow contrary to Hedgerow Regulations (where works are being carried out)</p>
<p><b>Level 1</b></p>	<p><b>Where there is significant or immediate harm (and not falling under Urgent category)</b></p>
	<p>Where there is significant immediate harm caused to highway safety, residential amenity, SSSI, setting of heritage assets or Assets of Community Value (ACV)</p>
	<p>Where an application for planning permission would not be supported in principle for the development or where planning permission has been refused</p>
	<p>Breaches of conditions relating to live sites where condition relates to the following</p> <ol style="list-style-type: none"> <li>1. Tree protection</li> <li>2. Highway conditions</li> </ol>
	<p>Where development is at risk of becoming immune from enforcement action and breach is causing significant level of harm</p>
	<p>Failure to comply with formal Notice issued by the Local Planning Authority and where breach of Notice is causing significant level of harm</p>
	<p>Complaints regarding the appearance or condition of land or building where the site is within a Conservation Area or affects the setting of a Listed Building and there is a significant level of harm</p>

<b>Level 2</b>	<b>Smaller scale breaches which do not result in significant immediate or irreversible harm but do have unacceptable planning impact</b>
	Development not in accordance with approved plans where the changes are considered to have an unacceptable adverse impact on residential amenity or the character of the area
	Breaches of conditions which are necessary to adequately protect the amenity of neighbours
	Operational Development or changes of use which have an unacceptable adverse impact on residential amenity, the landscape or heritage assets
	Commencement of Development without complying with pre-commencement conditions that go to the heart of the permission

Officers may review the assigned Prioritisation Category for a breach from time to time in accordance with the Flowchart.

#### **4. Reasons for not investigating cases or for closing cases**

Planning Enforcement officers will only investigate planning breaches (see Matters that are not Breaches of Planning Control section below). Equally, anonymous and/or vexatious complaints will not be investigated. Repeat complaints concerning matters which have previously been concluded will also not be investigated unless a significant change has occurred.

An enforcement case will not be raised if the information submitted with the initial report is insufficient for Officers to confirm that there is a breach of planning control or if no (or very limited) planning harm is identified.

If an alleged breach of planning control does not fall within one of the categories in the Prioritisation Table, the enforcement team will Decline to Investigate the matter.

#### **Reasons for closing enforcement cases**

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 or immune from enforcement action (due to time elapsed)
- it is a minor technical breach which does not warrant formal action
- the matters do not fall within one of the categories in the Prioritisation Table
- it is not expedient to take action (not causing unacceptable harm).

Where a breach has been identified but it is not considered expedient to take formal action, the case will be closed in accordance with the Scheme of Delegation.

## **5. Negotiations/Inviting applications**

In accordance with Government guidance the Council will initially try to resolve a breach of planning control 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 permission or conditions attached to any consent.

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

A retrospective application will only be invited where it is considered that there is a reasonable likelihood that planning permission may be granted in line with local and national planning policies or where a development may be made acceptable by way of the imposition of conditions.

Applications will generally not be invited for breaches relating to householder development or other minor breaches of planning control 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.

Where an application is received that has not been invited, The Council may continue with formal action at its own discretion. In the event that an enforcement notice has already been served, then the council may decline to determine any retrospective planning application which seeks to regularise any or all of the breaches of planning control that are referred to in the enforcement notice.

## **6. 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 planning harm
- 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.

## **7. 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. The type of formal action taken will also vary depending on the circumstances of the particular case.

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.

## **8. Keeping parties informed**

The Council will acknowledge reports of alleged breaches where the planning harm has been identified and 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.

## **9. Matters that are not Breaches of Planning Control**

The following are Matters that are not Breaches of Planning Control and will not be investigated by the Council's Planning Enforcement service:

- Internal works to a non-listed building;
- Obstruction of a highway or public right of way (PROW)
- Parking of commercial vehicles on the highway or on grass verges;
- Parking caravans on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property;
- Dangerous Structures
- Running a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity;
- Land ownership disputes or trespass issues;
- Issues relating to covenants imposed on property Deeds
- Issues relating to noise and disturbance; smell nuisance and light pollution which are investigated by our Environmental Health Team
- Issues relating to anti-social behaviour or Graffiti (unless in relation to high hedges)
- Matters relating to site security
- Sewers, soakaways and most other drainage matters
- Any works that are deemed to be 'permitted development' under the Town and Country Planning (General Permitted Development) Order 1995 as amended and or substituted;
- Advertisements that are either excepted from deemed and express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

## **10. Monitoring**

There is no proactive monitoring of conditions so the Council relies on breaches of conditions being reported to the Enforcement team. However, an enforcement case will only be raised if there is clear evidence of the breach of condition and where planning harm arising from the breach has also been identified.

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. Formal action will only be taken as a last resort and officers will try to negotiate a satisfactory outcome in the first instance.

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

## **11. Review**

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

## **12. 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.

With the exception of matters falling under the Urgent Category, the Council will only consider whether to investigate a reported breach where a Complaint form has been fully completed and submitted via the Council's website. Privacy Statement

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.

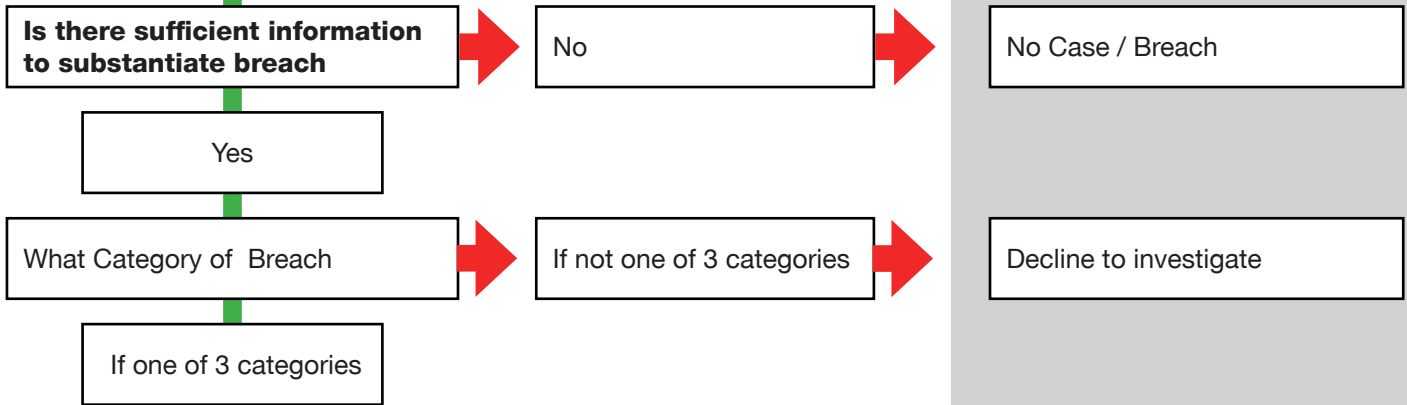
## **13. Flow chart**

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

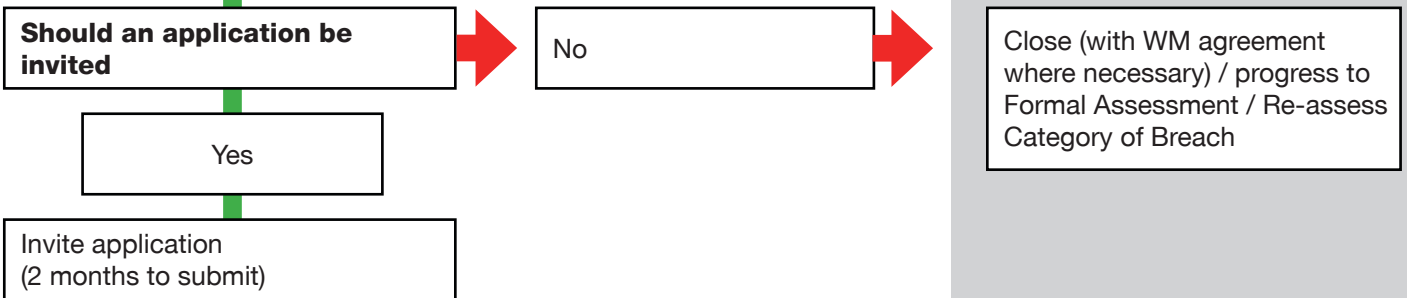
## RECEIPT



## ACKNOWLEDGEMENT & recording of case

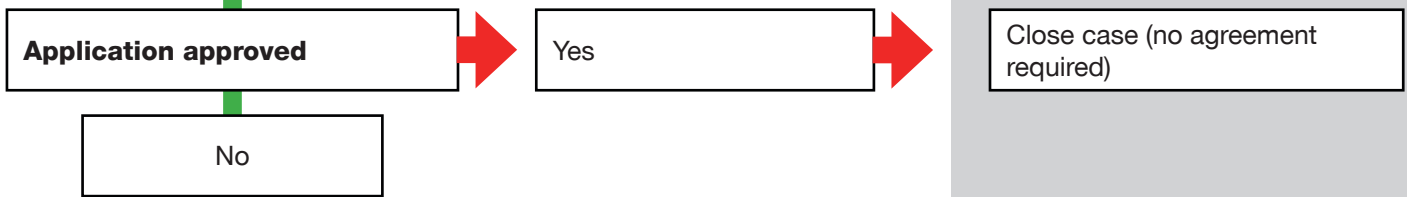
## SITE VISIT & INVESTIGATION

## INITIAL PLANNING ASSESSMENT

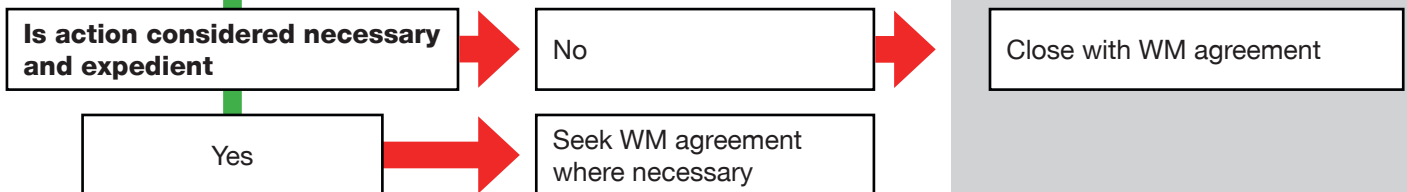


## NEGOTIATION (If appropriate)

## AWAIT DETERMINATION OF APPLICATION (IF INVITED)



## ASSESSMENT FOR FORMAL ACTION



## REGULATORY COMMITTEE

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

## FORMAL ACTION