

THE POLICY ON ENFORCEMENT

In what order of priority will complaints be dealt with?

- **Allegations about breaches of planning control will be investigated thoroughly and accurately in accordance with the following order of priority:-**

High Priority

1. Unauthorised demolition or partial demolition of a building, which it is essential to retain (e.g. a Listed building or building within a Conservation Area) or where it gives rise to a serious risk to public safety.
2. Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation Area.

Medium Priority

3. Any unauthorised development/activity which, causes clear, immediate, and continuous harm or danger to the locality including the living conditions of adjoining residents.
4. Breach of a condition, which results in serious harm to amenity in the neighbourhood.
5. Unauthorised development in an Area of Outstanding Natural Beauty, Site of Special Scientific Interest (or other national designation of nature conservation), or Conservation Area or where an Article 4 Direction has been issued or in the area of Townscape Heritage Initiative/Heritage Economic Regeneration area, or a registered and locally important historic park and garden.
6. Any unauthorised development where the time limit for enforcement action will expire within the next 6 months.
7. Unauthorised development, which is the source of significant public complaint.
8. Unauthorised advertisements.

Low Priority

9. Unauthorised development, which would be likely to receive planning permission if a planning application were to be submitted.

- **Responding to complaints**

The Council receives approximately 600 complaints regarding alleged breaches of planning control every year. Although many of these do not result in a formal enforcement case, many require lengthy investigations

or site surveillance over several months, and therefore the Council must give priority to those cases where greatest harm is caused.

Depending on the seriousness of the alleged breach, resources and response times will be allocated accordingly.

Complaints of unauthorised development will be acknowledged within 5 working days of receipt. Complainants will then be kept informed of the progress of their complaint at any and all available opportunity.

Respond to 85% of complaints regarding breaches of planning control within 15 working days of receipt.

The aim will be to resolve 50% of reported cases within 12 weeks from the date of receipt of the initial complaint.

- **Complaints about alleged breaches of planning control will be accepted by e- mail, letter, telephone or by personal caller provided the complainant provides their name, address and telephone number. In the future, it is intended to accept complaints by way of the Short Messaging Service (Text). Anonymous complaints will not be entertained, although the complainant will be encouraged to refer the matter to either their elected Ward Member or their Parish Council representative to advance their complaint, should they wish to remain anonymous.**

When will action be taken?

- **In deciding whether to take enforcement action the Council will have regard to the development plan and to any other material considerations including national policies as expressed through Government Circulars and Policy Guidance Notes or Policy Statements. In considering whether it is expedient to take enforcement action the decisive issue for the Council will be whether the breach of control would unacceptably affect public amenity, whether it would give rise to a serious risk to public safety or the existing use of land and buildings merit protection in the public interest. Any action taken will be commensurate with the breach of control to which it relates.**

This reflects the general approach to enforcement set out in Planning Policy Guidance Note18. Where it is assessed that it is likely that planning permission would be granted for the development, the person responsible will normally be invited to submit a retrospective planning application. It will generally be inappropriate to take formal enforcement action against a trivial or technical breach of control, which causes no harm to amenity in the locality of the site.

What procedures will be used?

- **In deciding whether to take enforcement action the Council will have regard to the procedural advice contained in relevant Government Circulars, Guidance Notes, Policy Statements and will use model notices wherever possible.**

In defending enforcement action on appeal and where prosecuting in the courts, it will be necessary to show that the relevant procedures have been followed and that national policy on planning and enforcement (e.g Planning Policy Statement 1, Planning Policy Guidance Note18) has been taken into account.

- **Accurate records will be kept including photographs.**

The collection of accurate evidence is one of the keys to successful enforcement action.

- **Proper delegated authority will be provided to Officers by the Council to enable swift and efficient investigation and action to take place.**

Extensive delegated powers have been granted in the Council's scheme of delegation to the Head of Legal and Support Services and/or the Head of Planning (or their nominated representative). However some matters will be presented before the Development Control Committee to seek authorisation to pursue formal enforcement action, for instance when seeking authority to serve an Enforcement Notice.

- **Decisions not to take enforcement action will be made by the Head of Planning (or their representative) normally following a report from the Development Control Manager (Enforcement). Reasons for not taking action will be recorded in writing.**

It is in the public interest that decisions not to take enforcement action are taken openly and that elected representatives have the opportunity to examine the relevant issues, by referring the matter to committee if necessary.

- **The Council will make efficient use of the relevant investigative powers and will justify their use as required.**

Full use will be made of Planning Contravention Notices or Requisitions for Information to elicit information about alleged breaches of control where evidence is not otherwise forthcoming. Where appropriate, powers of entry on to land will be used to obtain information for enforcement purposes.

- **In carrying out its enforcement investigations the Council will make efficient use of Land Registry records and its own records.**

Information relevant to enforcement investigations is held in a variety of locations. Sources outside the Council include the Land Registry, Parish Councils, national and local amenity groups, national bodies (eg:

Environment Agency, Health and Safety Executive, DVLC, English Heritage). Within the Council, housing and benefit records, electoral roll and council tax records, and information contained within other Council departments, will be relevant sources subject to current data protection laws.

- **The Council will comply with the provisions of the Police and Criminal Evidence Act 1984 when interviewing persons suspected of a criminal offence and with the Criminal Procedures and Investigations Act 1996 and Section 222 of the Local Government Act 1972, when carrying out prosecutions.**

It is not a criminal offence to carry out development without first obtaining planning permission. However, it is an offence to erect unauthorised advertisements, fell a protected tree without consent, carry out unauthorised works to a listed building, or fail to comply with an enforcement, breach of condition, planning contravention, section 330 or stop notice. For a successful prosecution to take place it is essential that the provisions of the Police and Criminal Evidence Act 1984 and Criminal Procedure and Investigations Act 1996 are followed.

- **The Council will ensure officers keep up to date with case law.**

It is important to ensure that Officers acting on behalf of the Council are fully aware, and informed of changes in legislation or case law to ensure accuracy and professionalism are maintained at all times.

- **The Council will allocate resources to actions through to the end.**

Once an investigation has been commenced, the Council will ensure that all reasonable resources will be made available in order to ensure that the matter is concluded satisfactorily, where it is considered expedient to do so.

- **The Council will make sure actions are properly authorised.**

Extensive delegated powers have been granted in the Council's scheme of delegation to the Head of Legal and Support Services and/or the Head of Planning (or their nominated representative). However some matters will be presented before the Development Control Committee to seek authorisation to pursue formal enforcement action, for instance when seeking authority to serve an Enforcement Notice.

- **The Council will be clear and precise in specifying breaches and requirements.**

Every effort will be taken to ensure that those being regulated, fully understand what action is being taken and the possible implications should they fail to comply with the requirements of that action.

- **The Council will use plain English.**

Clarity and understanding shall be maintained at all times.

- **The Council will be prepared to use all the enforcement powers available commensurate with the seriousness of the breach.**

Only the most appropriate course of action shall be taken in order to rectify any breach of planning control.

- **The Council will make sure the reasons for issuing an Enforcement Notice match its requirements.**

Only those actions necessary to remedy a breach will be included in a notice.

- **The Council will stick to procedural time limits or ask for justifiable extensions.**

In certain circumstances additional time may be required in order to comply with the Council's requirements. When this is apparent, due consideration will be given to permitting such requests so long as the apparent harm to third parties can be minimised. The Council will meet the Planning Inspectorate's timescales when dealing with appeals and will only request extensions of time where the circumstances are exceptional.

- **The Council will involve the police if trouble is expected.**

Where there is a perceived threat to either an officer of the Council or a member of the public, then the police will be requested to attend a site visit in order to ensure that safety is not compromised in any way.

- **The Council will have regard to the Council's obligations and powers under other legislation.**

- **The Council will be flexible and consider genuine solutions.**

Where possible any alternative solution will be considered in order to achieve a satisfactory conclusion to a reported breach of planning control. The use of formal enforcement action will be as a last resort and shall not be used without first seeking a remedy by other means, for instance through negotiations.

- **The benefits of IT systems in recording, processing and monitoring work will be maximised.**

IT systems are an essential tool in all spheres of planning control and their use in enforcement work will maximise the efficiency of the officers involved.

- **Where appropriate, relevant officers will liaise with adjoining authorities to share enforcement experiences.**

The enforcement service can benefit from team working between different authorities. Shared practices, procedures and experiences can all add value to the service.

- **In order to avoid unnecessary delay, the Council will issue notices in the alternative where there is uncertainty over the nature of the breach.**

In some cases it may not be clear as to what the breach of control involves. For example, the siting of a mobile home may amount to a material change of use or it may be an operational development. To avoid delays, which may be caused by pursuing what can turn out to be a wrongly defined breach, alternative and composite notices will be served as appropriate.

- **The Council will not allow prolonged negotiation to delay essential enforcement action.**

Whilst the Council will endeavour to overcome any harm caused by unauthorised development, by negotiation wherever possible, the enforcement system rapidly loses credibility if unacceptable developments are perpetuated by prolonged or protracted enforcement discussions. A time limit for concluding negotiations will be set in every case.

- **In considering whether to take enforcement action the Council will not give weight, either way, to the fact that development may have commenced.**

It is not a criminal offence to carry out development without planning permission and it is therefore important that unauthorised developments are treated on their individual merits in the same way as proposed developments. The test to be applied will be “would planning permission have been granted for this development had it been the subject of a planning application?”

- **The Council will not enforce solely to regularise acceptable development.**

Where development has taken place without planning permission having been granted and that development is acceptable, the Council will not normally seek to take action against the development.

- **In considering whether to take enforcement action, the Council will not give weight to non-planning considerations.**

It is not the purpose of the planning system to protect the private interests of one person against the activities of another. Action must be placed on sound planning grounds. Local opposition or support for an unauthorised development will not be given weight unless that opposition or support is founded upon valid planning reasons.