

Planning Enforcement

A Guide for Owners and Occupiers



The Council receives many requests to investigate concerns that development may have taken place without planning permission. Concerns may be raised by the general public, Town or Parish Councils, local organisations etc. An investigation may also arise from other work being undertaken by the Council. This leaflet helps explain the way in which an enforcement investigation is handled

What does the Council do first?

All queries about alleged breaches of planning control are investigated. An Enforcement Officer will pay an initial visit and may ask to enter the site. If Officers require access to a site and experience difficulty in obtaining this the Council can exercise a right to enter onto land. Sometimes an investigation is resolved without the need to contact the owner/occupier of the land.

How will I be informed of any concern?

If the Council needs to ask you for information the Enforcement Officer will inform you of the nature of the concern which has been received. You may be asked to discuss the matter on site. The identity of individual complainants will not, however, be disclosed. The Council will first wish to establish whether there has been a breach of planning control and will seek your co-operation in this. Occasionally, it may be necessary to confirm certain facts through the service of a Planning Contravention Notice, which is a more formal questionnaire.

How do I decide what to do?

Many investigations are resolved without the need to take formal action through discussion and the Enforcement Officer will wish to establish with you whether this is likely. If this involves retaining the development in some form, you will normally be given an opportunity to submit a retrospective application for the Council's consideration. In certain situations there may be a case for submitting an application for a Certificate of Lawful Use or Development which is a formal process to determine if a use or development has become immune from enforcement action through the passages of time. Any application should normally be submitted within 28 days. Where a planning application is not submitted or planning permission has been refused, the Council will need to decide whether enforcement action should be taken.

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Why make a retrospective application?

It is the fairest way by which the Council can make a decision where unauthorised development has taken place. Any views expressed by interested parties can be taken into account and you are able to explain your proposals properly. If an application is considered by the Development Control Committee you also have an opportunity to address the Members at the meeting.

You may believe that the Council has no grounds to refuse permission or to take enforcement action, and that there is therefore no point in making an application. You should, however, consider that problems can develop in selling the property if a necessary planning permission has not previously been obtained.

The absence of a planning permission may also lead to the Council continuing with an investigation, particularly if further complaint is received from the public.

Further guidance

The Council has adopted both an Enforcement Policy to act as a guide in making decisions about unauthorised development and the Government's Enforcement Concordat which defines best practice in the consideration of enforcement matters. Copies of these documents can be obtained from visiting the Council's website. You may discuss the investigation with one of the Council's Enforcement Officers at any stage of the process. If you have any concerns about the conduct of an investigation, you should contact the Principal Planning Enforcement Officer.

How are enforcement decisions taken?

Decisions about enforcement action are based on the impact and level of any harm caused by the development in planning terms. The Officer dealing with the matter will be in a position to advise of his/her assessment when sufficient information is available.

If the officer is satisfied that no planning harm is caused by the development, a planning application will be invited. If no application is made the Council will then decide if it is expedient to take formal enforcement action having regard to all the circumstances of the case and current priorities.

Taking formal action

If a planning objection can not be resolved, formal action is likely to be taken. Decisions about the issue of enforcement or other formal notices may be taken by officers under delegated powers without reference to the Council's Development Control Committee. An enforcement notice may require development to be removed or a use of land to cease. A breach of condition notice will require compliance with a condition on a planning permission. An appeal can be made to the Secretary of State against an enforcement notice on a number of grounds and Officers can advise how this can be exercised. There is no right of appeal against a Breach of Condition Notice. If you need help with formal action taken by the Council and have not already contacted someone, you may wish to consider engaging professional assistance or contact Planning Aid at www.planningaid.rtpi.org.uk/ depending on which stage the investigation has reached.

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