

# Planning Enforcement Strategy

## 1.0 Introduction

- 1.1 The District is rural in character. It has historic villages and towns, many listed buildings, and conservation areas. It also has protected landscapes and habitats of international importance. Good planning enforcement is key in protecting its environment. It also helps to ensure the delivery of quality developments.
- 1.2 Government policy also recognises the benefit of effective planning enforcement. This is set out in the National Planning Policy Framework [NPPF].
- 1.3 At Chichester District Council we have a dedicated planning enforcement team. The team investigates all reported breaches of planning control.
- 1.4 This Enforcement Strategy explains the planning enforcement function. It gives clear guidance on what we can do and the prioritisation of complaints. It explains how to make a complaint and what happens next.
- 1.5 In 2017, the Strategy underwent a 'light touch' review to refresh its content. It has now been reviewed again (October 2024) due to further changes to enforcement that became effective on 25 April 2024 arising from the Levelling Up and Regeneration Act 2023 (LURA). The main changes include the time for taking enforcement action, the introduction of Enforcement Warning Notices (EWN) and restriction on appeals against enforcement notices.

## 2.0 The Objectives of the enforcement process

- 2.1 The purpose of the enforcement process is set out below.
  - To remedy the undesirable effects of unauthorised development.
  - To ensure fairness for those who adhere to planning control.
  - To protect amenity and the natural environment.

- To enable acceptable development to take place.
- To ensure that the credibility of the planning system is not undermined.
- To be reactive in the investigation of complaints.

### **3.0 Our Principles**

- To acknowledge and investigate written complaints, from named individuals.
- To be consistent in the investigation and consideration of enforcement action.
- To communicate by email.
- Prioritisation of complaints based on potential harm.
- Keeping the identity of complainants confidential.
- Keeping complainants informed of the progress of investigations and of the eventual outcomes.
- Enforcement action is proportionate, and reasonable when compared to the breach.
- Pending the outcome of a related application, enforcement may be suspended.
- To work with other agencies and organisations to deliver acceptable outcomes.

3.1 We will deliver our planning enforcement service with fairness and respect.

### **4.0 Expediency**

4.1 Planning legislation influences the investigation of a breach of planning control. There are five primary considerations:

1. In most cases a breach of planning control is not a criminal offence. For this reason, immediate action is not usually an option.
2. Each case will be different having regard to the facts. A decision to recommend formal enforcement action, will be fair and independent.

3. Enforcement action is only taken where it is expedient to do so. If development could be acceptable on application to the Council, action may not be taken.
  4. Government advice urges negotiation to try to resolve enforcement issues. This has implications for the length of time the process can take.
  5. Retrospective planning permission can be sought to regularise unauthorised development.
- 4.2 We will investigate a reported breach of planning control. But the use of the enforcement powers available is discretionary. In deciding expediency, the Council will consider if the development:
- Affects public amenity, or a protected historic or natural asset.
  - Gives rise to a serious risk to public safety.
  - Undermines existing uses or buildings that merit protection in the public interest.
- 4.3 The Council will explain why it has decided to take enforcement action. It will state why an application is not appropriate.
- 4.4 Not all breaches of planning control will result in harm. In these cases, officers may decide not to take any further action. This is because enforcement action is not a punitive measure. A trivial or technical breach of control will not be enforced. The Council will explain why action is not expedient and will notify the local Ward Member before the owner of the affected property is advised of the decision.

## **5.0 Priorities**

- 5.1 The Council gives priority to cases that cause the greatest harm. Prioritisation of breaches of planning control is as follows.

### **High Priority**

- 5.2 A site visit will be undertaken within 2 working days for the following matters:
- The demolition or significant alteration of a listed building
  - The demolition or significant alteration of a building in a Conservation Area.
  - Works to trees covered by a tree preservation order (TPO) or in a Conservation area.
  - Works that cause immediate and continuous harm or danger and impacts residential amenity.

### **Medium Priority**

5.3 A site visit will be undertaken within 10 working days for the following matters:

- Development that will be immune from enforcement action within 6 months
- Development and non-compliance with conditions that harm residential amenity or a Conservation Area
- Development or activity that harm a designated landscape of national importance.

### **Low Priority**

5.4 A site visit will be undertaken within 20 days for matters that cause little harm:

- Walls, fences, advertisements, flag poles, CCTV, and satellite dishes
- Householder development such as sheds and minor building works
- Works falling within the scope of 'Permitted Development'.

5.5 At Appendix 1 is a flow diagram of the investigation process.

5.6 The prioritisation of cases can change during the process. This can result in the escalation of a low or medium priority matter.

## **6.0 Making a complaint.**

6.1 If you wish to report a planning breach, please use the online [report a breach](#) form.

6.2 Customers need to state the site address. They also need to state what use or activity is taking place, the harm arising from it and how long it has been going on.

6.3 For High Priority cases, please telephone Chichester District Council Tel: 01243 534734 to alert the Planning Enforcement Team. It is also necessary to complete the [report a breach](#) form for the case to be recorded. Please note that phone calls are not accepted for any non-high priority cases.

6.4 Your information and details are confidential. Personal information is not published or shared with third parties.

6.5 You will receive written confirmation of your complaint. This includes the name and contact number of the case officer investigating it. We aim to do this within 5 working days.

## **7.0 What if someone reports you?**

- 7.1 The Council will contact you about the breach alleged. You will have the opportunity to explain your side of the case. You do not have to do anything if there is no breach. You will be given advice as to what to do if there is a breach.
- 7.2 Your co-operation will be sought to correct the breach. The breach may need to stop or be put right with a planning application. There will be a reasonable period for you to do this.
- 7.3 You may receive a 'Planning Contravention Notice'. This requires responses to questions about the development or use carried out. The information will help to establish the facts of what has occurred. It will also show whether there is a need for formal action. You will receive advice and guidance about the action taken.

## **8.0 Time Limits**

- 8.1 Section 171B of the Town and Country Planning Act 1990 (TCPA) sets out the time limits for taking enforcement action.
- 8.2 On 25 April 2024, secondary legislation following the Levelling Up and Regeneration Act 2023 ("LURA") amended s.171B of the TCPA. The time limit for taking any form of enforcement action is now 10 years. This is for operational development, material changes of use and breaches of condition.
- 8.3 Transitional provisions apply but there is a need to show the completion of the work before 25 April 2024. This applies to building operations and use of a building as a dwelling house.

## **9.0 What is a breach of planning control?**

- 9.1 Some breaches of planning control are obvious. Like building a house without planning permission or a failure to carry out a development or works that are not in accordance with the approved plans and details. Others are not and the process of assessing development is not straightforward.
- 9.2 The following are examples of a breach of planning control where the necessary permission, prior approval or consent has not been given by the Local Planning Authority.
  - Changes of use of land or buildings.
  - Stationing of caravans and mobile homes for residential occupation.
  - Display of advertisements.
  - Felling of protected trees.
  - Work to protected trees, listed buildings, and demolition in a Conservation Area.

9.3 The assessment of complaints about a breach of planning control does not include:

- Loss of value to a neighbouring property
- Commercial competition
- Loss of a view or trespass
- Private covenants on deeds
- Boundary disputes

These are not material planning considerations and so cannot be taken into account as part of the investigation process.

## **10.0 Deciding when to take enforcement action**

10.1 The Council will try to remedy a breach of planning control through negotiation. This can include:

- The submission of a retrospective application; or
- Persons carrying out agreed steps to overcome problems with a development.

10.2 When considering whether to take enforcement action consideration is given to; the planning merits of the development having regard to national and local planning policies. This will inform the most appropriate action. Expediency and the public interest of taking action are further considerations. See Section 4 above.

10.3 The amount of time it takes to resolve a breach of planning control depends on the severity of the breach. We will seek to negotiate with the owner/occupier to remedy the breach or resolve harmful impacts that arise from it. We may request an application for retrospective planning permission, as this allows for full and open consideration of the development. It can also lead to the use of conditions to control the development.

10.4 The highest priority is for breaches causing significant detrimental impact. This includes those likely to cause irreversible harm. In such cases, the council will issue notices to stop the breach. A notice will set out the steps to achieve this and to correct the harm caused.

10.5 The enforcement case concludes on resolution of the breach. All interested parties are notified of this action.

10.6 A flow diagram of the steps taken in response to an identified breach of planning control is at Appendix 2.

## **11.0 Types of Action**

- 11.1 There are a range of formal powers the council can use to remedy breaches of planning control. The main forms of enforcement action taken by the Council are:

### **Planning Contravention Notice**

Requires persons to give information about land and activities. Often used to determine if there is a breach of control and to help decide the appropriate course of action.

### **Enforcement Warning Notice**

This invites an application. It starts the formal enforcement process.

### **Enforcement Notice**

Requires steps to be taken to remedy a breach. There is a right of appeal.

### **Breach of Condition Notice**

Secures compliance with conditions attached to a planning permission.

### **Stop Notice**

Issued with an enforcement notice when necessary. It requires activities to stop within 3 days.

### **Temporary Stop Notice**

Requires the activities to stop immediately for 56 days.

### **Section 215 Notice**

It requires the maintenance of land to protect public amenity.

### **Direct Action**

Used exceptionally by the authority. The council can enter land to take steps to secure compliance with an Enforcement Notice. This is at the council's cost, but these are recoverable from the landowner.

- 11.2 It is a criminal offence not to comply with a formal notice. If this happens, the council will gather information and evidence. Action taken can include prosecution proceedings or the use of an injunction. But it could also mean working with those responsible to seek a resolution. The level of action taken will depend on the public interest and the expediency of doing so.
- 11.3 At Court the council will consider whether to make an application under the Proceeds of Crime Act [POCA]. This enables the Council to apply for the recovery of criminal assets relating to the crime.

## **12.0 Appeals against the issue of an Enforcement Notice**

- 12.1 There is a right of appeal against the issue of an Enforcement Notice to the Planning Inspectorate. The Council does not set the timetable for appeals. Depending on the complexity of the appeal it may take many months to resolve.
- 12.2 An appeal suspends the requirements of an Enforcement Notice. Where an appeal is upheld, the Enforcement Notice is no longer valid. The enforcement case is then closed.
- 12.3 An Enforcement Notice is upheld when an appeal is unsuccessful. The period to comply then commences on the date of the appeal decision letter.

For further information on enforcement appeals See:

<https://www.gov.uk/appeal-enforcement-notice>

- 12.4 An appeal against an Enforcement Notice cannot be brought on ground (a) (an application for retrospective planning permission) where an application for planning permission has already been made to regularise the breach. This does not apply to appeals against enforcement notices that were issued, and have not been withdrawn, before 25 April 2024.

### **13.0 Injunctions**

- 13.1 In exceptional cases, the Council may seek an injunction through the Courts. This can happen at any stage of the enforcement process. The Council may use an Injunction as its preferred action or besides other formal action. Unlike an enforcement notice or a stop notice, injunctive proceedings are “personal”. This means that an order from the Court will restrain a person, or persons, from carrying on the breach.
- 13.2 To refuse or neglect to do something required by a Court Order is a criminal offence. It can also result in a prison sentence.

### **14.0 Proactive Enforcement**

- 14.1 The Council will monitoring important planning conditions on large development sites as necessary.
- 14.2 The council will use its resources and promote cross department liaison, this may include, for example, working with our ecologists, building control officers, drainage engineers.
- 14.3 The Planning enforcement team will work with other agencies and authorities in carrying out investigations. This includes the Police and the Environment Agency.
- 14.4 Officers will be proactive when they detect a breach of planning control. Or, in targeted issues such as advertisement control.

### **15.0 Publicity**

- 15.1 To raise public awareness, the Council will publicise successful enforcement action.

## **16.0 Performance**

- 16.1 The Council's Planning Committee receives a report of planning enforcement performance on a quarterly basis. The purpose is to ensure that the Council's targets for managing enforcement complaints are maintained.

## **17.0 Anonymous/vexatious/repetitive reports**

- 17.1 Anonymous reports of alleged breaches of planning control are not investigated. But the Council retains the discretion to do so. Repetitive or vexatious reports are not investigated.

## **18.0 Equality**

- 18.1 The Equality Act 2010, Section 149, is relevant. This enforcement strategy seeks to avoid unlawful discrimination from the process. Also, harassment and victimisation. The aim is to advance equality of opportunity between different groups. It seeks to foster good relations in the process. In doing so, the Strategy conforms with the Equality Act 2010 and the Council's policy on equality.

## **19.0 Information**

Further information about planning enforcement is available online as follows:

Enforcement and post-permission matters - GOV.UK ([www.gov.uk](http://www.gov.uk))  
planning-enforcement-handbook-for-england.pdf (rtpi.org.uk)

## **20.0 Legislative Framework**

- 20.1 The relevant legislation and policy include:
- The Town and Country Planning Act 1990 (as amended)
  - The National Planning Policy Framework
  - The Planning (Listed Building and Conservation Areas) Act 1990
  - The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
  - Town and Country Planning (Tree Preservation) Regulations (England) 2012 (as amended)
  - The Town and Country Planning (General Permitted Development) Order 2015 (as amended)

- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (Environmental Impact Assessment) Regulations 2011
- The Development Plan
- Neighbourhood Plans
- Human Rights Act 1998
- Localism Act 2011
- Police and Criminal Evidence Act 1984 (as amended)\_
- Proceeds of Crime Act 2000 (POCA)
- The Planning Act 2008
- Levelling-up and Regeneration Act 2023