Bracknell Forest Council
Local Enforcement Plan
August 2026





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Executive Summary

1.1 As a public authority, the Council has a responsibility to be fair, open, and proportional when considering interventions such as planning enforcement. Enforcement action is discretionary, and local planning authorities (LPAs) should act proportionately to suspected breaches of planning control. This Local Enforcement Plan provides a clear framework on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments, and monitor the implementation of planning permissions.

1.2 This document sets out the approach we will take in relation to breaches of planning in Bracknell Forest. It has been reviewed in light of the Levelling Up and Regeneration Act 2023 which enhanced the enforcement capabilities of LPA's and provides more time for them to address breaches of planning control.

1.3 In dealing with enforcement we must consider the key themes of the Council's Corporate Priorities as set out in its Council Plan 2023-2027.

1.4 Relevant Council priorities are:

- Engaged and healthy communities
- Thriving and connected economy
- Green and sustainable environment
- An ambitious, resilient and sustainable organisation

1.5 Nationally, the planning enforcement system is based on two important principles:

Firstly, that a breach of planning control is not a criminal offence, except for:

- unauthorised works to listed buildings;
- illegal advertisements (such as banners and posters); and
- unauthorised works to or felling/causing death of protected trees;

Other than those described above, a criminal offence for a breach of planning control only arises when an Enforcement Notice has been served and has not been complied with.

Secondly, it is at the Council's discretion whether action will be taken, and any action taken must be proportionate to the harm caused by the breach. Enforcement action is intended to be remedial rather than punitive.

1.6 The enforcement service seeks to record and investigate all legitimately made reports of breaches of planning control. This plan sets out how the enforcement service can be accessed by members of the public, and the process by which investigations will be carried out in a fair and proportionate way. This will be delivered using an 8 Phase investigation process, which sets out when people can expect to be updated on the progress of an investigation, and when the service will aim to have delivered results on an investigation.

1.7 This plan also explains how decisions are made and describes the tools available to the Council for carrying out planning enforcement.

2.Introduction

Vision and Priorities

2.1 Our vision for the Borough is one where we put residents first, working together to grow sustainable, resilient, and inclusive communities.

2.2 To deliver this vision, the Council will focus on 3 borough priorities to achieve this ambition:



Engaged and healthy communities
Our role is to help create opportunities where people can succeed, be happy and feel safe.



Thriving and connected economy
The local economy includes many different aspects, such as businesses, jobs, skills, accommodation and services.



Green and sustainable environment
Our environment includes everything around us, including our green spaces and our local transport networks.

2.3 The full version of the plan and it's aims can be found here:

Council Plan 2023 to 2027 | Bracknell Forest Council

2.4 By having a public plan about how planning enforcement will be delivered, and having measurable service delivery targets, the enforcement service is being open and transparent about how planning enforcement will take place in the Borough. It seeks to instil confidence in the planning system and demonstrate how the Council will work to ensure that planning breaches are resolved, contributing towards our vision for a green and sustainable environment. It also shows that the process has been considered and is open to review to ensure that the service is accessible and provides value for money.

What is Planning Enforcement?

2.5 Planning enforcement is the mechanism of control that upholds the integrity of the wider planning system. The function sits within the Development Management Team in the Council's Place Directorate. The function is led by a Principal Planning Enforcement Officer, supported by a Senior Planning Enforcement Officer and a Planning Enforcement Officer.

2.6 The planning enforcement system is based on two important principles:

- A breach of planning control is not a criminal offence, except for unauthorised works to listed buildings, works to protected trees, illegal advertisements (such as banners and posters) and in some cases, demolition without consent. A criminal liability for other breaches may arise upon non-compliance with various types of enforcement notices served under the provisions of Town and Country Planning Act 1990. It is also an offence to obstruct a local authority officer exercising their right of entry to investigate a breach.
- It is at the Councils' discretion whether action will be taken – and any action taken must be proportionate to the harm caused by the breach.

2.7 Fair and effective enforcement is essential to protect the public, businesses and the environment from unauthorised development and its harmful impacts. Decisions about the appropriate form of enforcement action to take, and in particular the decision to prosecute, can have serious implications for all involved.

What is a Local Enforcement Plan?

2.8 A Local Enforcement Plan is a public document produced by a local planning authority which explains how the Council will deal with matters of planning enforcement. The plan sets out key priorities and how different types of planning breaches are prioritised and dealt with. It explains what issues the Planning Enforcement Team are able to investigate and how such investigations will be conducted.

2.9 National Planning Policy Guidance (NPPG) confirms that the preparation and adoption of a local enforcement plan is important as it sets out priorities for enforcement action, which can be tailored to local circumstances. It also provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers, providing greater certainty for all parties engaged in the development process.

2.10 National guidance entitled 'Enforcement and post-permission matters' is provided in the National Planning Practice Guidance (NPPG) and is available to view online at:

Enforcement and post-permission matters - GOV.UK

2.11 The primary statutory framework of legal controls for planning enforcement is set out in Part VII of the Town and Country Planning Act 1990 (as amended). The National Planning Policy Framework (NPPF) provides the Government's planning policies for England and how these are expected to be applied.

2.12 Where an enforcement role is shared with another agency, joint working may be undertaken with them, including the Police, where appropriate. This work will be subject to that agency complying with the underlying principles of this plan.

3. What are breaches of Planning Control?

What constitutes a breach of planning control?

3.1 A breach of planning control is the carrying out of development without consent. Section 55 of the Town and Country Planning Act 1990 defines development as 'the carrying out of building, mining, engineering or other operation in, on, under or over land, or the making of any material change in the use of any buildings or other land'.

3.2 Section 171A of the 1990 Act establishes that the carrying out of development without the required planning permission and the failure to comply with any condition or limitation, subject to which planning permission has been granted, constitutes a breach of planning control.

3.3 In more simple terms, most types of building works and changes of use of land or buildings require planning approval. If this sort of development takes place without the relevant approval, unless an exemption is applicable and demonstrated, the works are defined as 'a breach of planning control' and enforcement action can be taken at the discretion of the Council.

3.4 Other unauthorised actions such as works to protected trees or placement of advertisements may constitute an offence, unless approval is first obtained from the local authority, or where a demonstrable exemption applies.

3.5 The planning enforcement regime is founded on the principle that, in most cases, carrying out development without first obtaining planning permission is not, in itself, a criminal offence.

3.6 This effectively means that it should not be a default position that people be punished for breaching planning control. In many circumstances, breaches are unintentional or result from a misunderstanding of the very complex planning system.

3.7 Unauthorised works that are criminal offences: include the felling of or unauthorised works to protected trees covered by a Tree Preservation Order, unauthorised works to a Listed Building and contraventions of the Advertisement Regulations. These offences can lead to prosecution from the outset.

What is not a breach of planning control?

3.8 Some operational works do not require planning permission and some examples follow.

3.9 Most works that are undertaken inside a building do not require consent (unless the building is Listed). This might include taking down, or putting up an internal wall, replacing a kitchen or bathroom, or reorganising rooms inside a house for example.

3.10 A lot of landscaping or gardening works do not require planning permission. For example, creating a flower bed in a garden or planting or removing a bush, hedge or a tree (unless the tree or hedgerow is protected). It is worth noting however, that landscaping works may imply or assist in a change of use of the land, which might require planning permission, or the landscaping might be required to be retained by a condition attached to a planning permission. Works to raise ground levels which are considered material require planning permission and are deemed engineering works.

3.11 Works that are being carried out in accordance with an express consent (such as a planning permission granted by the Council, or advertisement consent), or in accordance with permitted development regulations such as the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) are not a breach of planning control.

3.12 There are time limits on the ability of the Council to take enforcement action over a particular breach:

- within 10 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place on or after 25 April 2024 (or within 4 years of substantial completion for such a breach where substantial completion took place before 25 April 2024),
- within 10 years for an unauthorised change of use to a single dwellinghouse where the breach took place on or after 25 April 2024 (or within 4 years where such a breach took place before 25 April 2024),
- all other changes of use (for example, an agricultural field being used as residential garden) – the Council may take enforcement action within 10 years of the date of change,
- failure to comply with planning conditions – the Council may take enforcement action within 10 years of the date that the condition is breached or not complied with.

It should be noted that works to a Listed Building are not subject to any time limit with regard to taking enforcement action.

3.13 In all of the above cases, the time limits mean that a development would be immune from enforcement action provided that the Council has not taken any action before the specified time period expired. It is worth noting however that section 171BA of the Town and Country Planning Act 1990 (as amended) allows local planning authorities to seek a 'Planning Enforcement Order' where deliberately concealed breaches of planning control have occurred. This means that upon obtaining such an Order, the authority may seek to enforce such a breach even though a relevant immunity period has passed.

Simple Remedies to Breaches of Planning Control

3.14 Planning Practice Guidance recommends that no enforcement action is taken against breaches which are trivial or technical and cause no material harm or adverse impact, and where development is acceptable on planning merits and enforcement would result in regularising the breach.

3.15 Some breaches of planning control can be easily resolved, either through minor amendments to a development, or where appropriate; they can be conditionally granted planning permission, if a planning application is made. This is generally the easiest way of achieving compliance.

3.16 In most cases, it will be explained in writing to the owner or occupier of a property how to remedy the breach of planning control before formal action is considered. This will usually be accompanied by a Planning Contravention Notice - PCN (see Appendix A).

3.17 If a breach of planning control has occurred, and the property owner or occupier wishes to negotiate an alternative solution (to the current breach) that would also require planning permission – negotiations will normally only be entertained by the Council through the planning application process. Submitting a planning application to carry out negotiations will not, however, always stop the Council taking enforcement action if it is considered expedient to do so.

4. Handling Reports of Contraventions

4.1 Every credible report of an alleged breach of planning control received by the Council from an identifiable party will be logged and a permanent record is kept. The logging of complaints enables the Council to ensure that all reports are assessed and followed up with action taken as appropriate. It also allows the Council to ensure that all complainants are kept informed of the outcome of the investigation.

4.2 All reports received from members of the public and other third parties (although not including Parish/Town Councils) are confidential unless express authorisation is given by the complainant for their identity to be revealed. This is subject to compliance with the requirements of The Freedom of Information Act 2000 and The Data Protection Act 2018.

Contacting the Planning Enforcement Team

4.3 It is Council policy not to respond to anonymous reports and that all enforcement service requests are made in writing. This helps monitor the number and type of cases received and may be useful later if formal action is pursued. Both during an enforcement investigation, and at its conclusion, the identity of a complainant is kept confidential, so you may write to the Council with confidence.

4.4 Where a telephone message is initially received relating to a potentially urgent and serious transgression that is likely to result in irreversible harm (for example, works to a Listed Building or works to protected trees), it is at the officer's discretion whether or not to waive the need for a complaint to be made in writing.

4.5 Possible breaches of planning control can be reported via several channels:

Email: planning.enforcement@bracknell-forest.gov.uk (preferred)

Council's Website: Planning enforcement and breaches | Bracknell Forest Council

Telephone: 01344 352055

Post: Planning Enforcement, Bracknell Forest Council, Time Square, Market Street, Bracknell RG12 1JD

What should be reported to Planning Enforcement?

4.6 Reflecting the diverse nature of planning enforcement within the authority, reports of breaches of planning control are likely to consist of reports about:

- the carrying out of development (development includes a change of use of land) where no planning permission exists;
- the carrying out of development (development includes a change of use of land) which deviates from an already granted planning permission;
- the breach of a condition imposed under a planning permission;
- the unauthorised display of advertisements;
- unauthorised works to a listed building;
- unauthorised works to a protected tree; and,
- untidy land issues.

Priorities

4.7 In order to make the most effective use of available resources, reports about alleged breaches of planning control will be investigated with a priority order rating of 'High - A', 'Medium - B' or 'Low - C' depending on the nature of the breach and the degree of harm deemed by the enforcement team to be caused. Individual cases may be re-prioritised as the investigation progresses. Initial site visit targets are set for each priority level and normally the Council will expect to operate within these targets. There may be times when a number of Priority A cases require the urgent allocation of available resources. At such times, targets for other priorities may not always be achievable.

Priority A

- Activities that have the potential to cause irreversible harm to the environment, especially sensitive sites such as Sites of Special Scientific Interest, or harm to protected species
- Activities that cause significant danger to the public;
- Activities resulting in significant disturbance to the amenity of third parties (this will be undertaken in consultation with other regulatory functions of the Council);
- Ongoing unauthorised works to a listed building;
- Ongoing unauthorised works to protected trees.

The target is to carry out an initial site visit within 1 working day.

Priority B

- Activities resulting in serious ongoing disturbance to third parties;
- Breach of a condition, which results in serious demonstrable harm to amenity in the neighbourhood;
- Unauthorised development in a Conservation Area or which contravenes an article 4 direction;
- Completed unauthorised works to a protected tree(s);
- Completed unauthorised works to a Listed Building;
- The erection of unauthorised advertisements that could have a detrimental impact on highway safety.

The target is to carry out an initial site visit within 7 working days.

Priority C

- Any unauthorised development (development includes a change of use of land) where the time limit for enforcement action will expire within the next 6 months;
- Unauthorised development (including a change of use), which is not the source of significant public nuisance complaint;
- The display of unauthorised advertisements that do not significantly impact highway safety;
- Minor breaches of condition;

The target is to carry out an initial site visit within 14 working days.

5. Investigation Process

5.1 Development and breaches of planning control are usually obvious, and difficult to hide from open investigation. For most enforcement investigations, covert surveillance is not required. There are circumstances however, where covert surveillance may be required, and in such cases the Council will comply with Regulation and Investigatory Powers Act 2000 (RIPA) which provides a statutory framework for use of investigatory techniques including surveillance and gathering information on the use of covert operatives. The Council's officers will demonstrate the requisite authorisation in cases where covert surveillance is necessary.

5.2 The Council carries out investigations using a model of a phased investigation. The objective of each phase is to filter out and close investigations which are unlikely toresult in formal enforcement action, either because they are not breaches of planning control, because a simple solution can fix the problem or because the Council does not think formal action is necessary (expedient). Overleaf is a brief outline of each phase an investigation will follow. A more detailed explanation of each phase can be found at Appendix B and as shown in Diagram 1 in that appendix.



Investigation Phase	Explanation
1 – Complaint receipt and logging	Once a complaint relating to a breach of planning control is received by the Planning Enforcement Team they shall log the complaint, acknowledge the complainant, and set the investigation priority level. Where a complaint is considered not to be a planning matter from the outset, correspondence shall be issued to the enquirer accordingly and no case need be opened - if the query may be relevant for another Council department or the matter is a civil one then advice shall be issued appropriately. Where a complaint has previously been investigated recently by the team further evidence of the potential breach may be invited and a new case would be investigated. All other investigations will move onto the next phase.
2 – Initial research and site visit	Research property history, assess allegation against regulations, conduct site visit, and issue a Temporary Stop Notice (TSN) if necessary. If a complaint is found to be unfounded, or it is discovered that planning permission has already been granted for the development the investigation will be closed. All other investigations will move onto the next phase.
3 – Information gathering and obvious remedies	Carry out Land Registry Searches and issue warning letters/ emails, Requisition for Information Notices such as S330 Notices or Planning Contravention Notices (PCN). Powers are available under Section 16 Local Government (Miscellaneous Provisions) Act 1976. If the breach is immune from enforcement action and no deception has caused this or it is found at this stage not to be a breach of planning control, the investigation will be closed. All other investigations will move onto the next phase
4 – Consideration & Formal Action	Consider the merits of the breach/offence and issue relevant notices/proceedings to remedy the harm caused and consider the expediency of further action. If planning permission is granted for a retrospective application, or there is no significant planning harm to be corrected as a result of the breach, the investigation will be closed. All other investigations will move onto the next phase (in the case that an appeal is made against action this will be Phase 5 – otherwise the next phase jumps to Phase 6).
5 – Appeals/Court Challenges	The Council will follow due process to defend the Council's actions. If the Appeal is upheld and the notice is quashed, or planning permission is granted under a Ground A appeal the investigation may be closed, or if the action was quashed because of a technical error, the investigation may go back to Phase 4 and formal action re-considered. All other investigations will progress to the next Phase.

Investigation Phase	Explanation
6 – Compliance Period Monitoring	Check compliance with any formal action preparing witness statements where appropriate and notify offenders. If the requirements of a notice have been complied with within the relevant timescales the case will be closed. All other cases will continue to the next phase.
7 – Prosecution	Where non-compliance with formal action persists, consideration will be given to instructing the Borough Solicitor to prosecute liable parties, and where appropriate those instructions will be issued. If the requirements of a notice have been complied with or it is not considered to be in the public interest to progress with legal proceedings, or the Courts find some legal flaw in the notice, the case may be closed. All other cases will progress onto the next phase.
8 – Direct Action and Injunctions	Consideration will be given to carrying out (or instructing contractors to carry out) Direct Action to remedy the breach and seek to recover any incurred costs. If Direct Action is not considered viable for the Council to carry out at this stage, consideration will be given to seeking an Injunction from the Courts requiring compliance. 7 and 8 are not mutually exclusive and depending on the circumstances and seriousness of the breach, the Council may choose to deploy more than one method of enforcement in conjunction.

Keeping People Informed

Performance Indicator	Target
Acknowledgement to be sent to complainant	Within 5 working days
Inform the complainant of the closure of a case	Within 10 working days of decision

5.3 Some cases may result in formal action being taken much sooner that the above time periods, for example in higher priority cases. Some of the more complex investigations, however, will take longer to process through the various stages.

6. Decisions on Enforcement Matters

Decisions on action in respect of alleged breaches of planning control

6.1 The taking of formal enforcement action is at the discretion of the Local Planning Authority, and all action must be proportionate to the breach that has taken place. Therefore, where there is a clear identified breach of planning control, which a contravener does not regularise either through carrying out remedial works or by way of a retrospective application for permission, the investigating officer must assess the expediency of taking formal enforcement action (i.e. enforcement action is not automatically taken against every breach of planning control).

6.2 Policy DM8 of the National Planning Policy Framework (NPPF) states that LPAs should take account of their Local Enforcement Plan, the impact of the breach of planning control, and the extent to which the breach would otherwise be acceptable when considering enforcement action.

6.3 The same considerations must be made in respect of retrospective applications that have been refused. The NPPF (2026) confirms that, if it is concluded on the evidence that the unauthorised development was intentional, that fact should be given substantial weight in considering any retrospective planning application. Although it follows that the planning merits of such cases have already been considered, the issues of impacts on Human Rights, proportionality of action and the public interest tests of any action would still have to be considered in coming to the decision as to whether to take action.

6.2 The Council's constitution delegates the planning enforcement function of the Local Planning Authority to the Executive Director: Place, who then in turn delegates relevant functions to appropriate officers within the Planning Service. A table of how these functions are delegated is attached at Appendix C and may be updated from time to time to reflect operational changes. Typically, an officer working in the planning enforcement team will write a delegated report with either a recommendation to close a case, or to take formal action, that will be signed off by an officer holding delegated authority for that function and this action forms the decision of the Council acting as the Local Planning Authority.

6.3 There is no formal requirement for the Council to undertake a public consultation when considering the expediency of taking enforcement action. Taking enforcement action is at the sole discretion of the Local Planning Authority (as which the Council acts). Any complaints received in writing to the Council regarding a breach of planning control will be considered on their planning merits as part of the investigation process.

Expediency of Enforcement Action

6.4 In considering any enforcement action, the decisive issue for the Council is whether the breach of control would unacceptably affect public amenity, conflict with planning policy for the proper planned development of the area, or impact on other material considerations, such as the protection of designated ecological sites or protected species, therefore meriting protection in the public interest.

6.5 Enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually 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). As with all planning decisions, a decision to take enforcement action should usually only be made where the development is contrary to development plan policy or other material considerations.

6.6 The Council will initially attempt to negotiate with the owner or occupier of the site to voluntarily remedy the harmful effects of the unauthorised development. This may involve a request that a planning application be submitted to remedy the breach. In this event, appropriate time will be given to allow the preparation and submission of such an application. However, negotiations will not be allowed to hamper or delay whatever formal enforcement action may be required. Where the Council's initial attempt to persuade the owner or occupier of the site voluntarily to remedy the harmful effects of unauthorised development fails, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required.

6.7 Appendix C sets out what decisions and powers can be exercised by different officers at the Council with regards to planning enforcement.

Equality and Diversity

6.8 The Planning Service's activities, including Planning Enforcement, must take into account the requirements of the Council's statutory Equality Duties under the Equality Act 2010, including to:

- Have due regard to the need to eliminate discrimination, harassment and victimisation.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a characteristic and those who do not.

6.9 Every effort will be made to ensure that enforcement decisions will be taken in a fair, independent and objective way. They will not be influenced by issues such as ethnicity, national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will also not be affected by improper or undue pressure from any source.

6.10 In deciding whether enforcement action is taken, the Council will act proportionately, where relevant, having regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

7. What if you are unhappy with the Council's decision

7.1 There is no third-party right of appeal within the planning system. Enforcement action is therefore taken at the sole discretion of the Council. An investigation will not normally be re-opened, unless significant further information or evidence is provided, showing compelling reason to review a previous decision. To make a request of this nature you should contact the planning enforcement team in the normal manner, providing any new information you think should be considered.

7.2 If you think the Council has not followed the correct procedures in coming to their decision, then a complaint about the process can be made using the Council's Comments, Compliments and complaints procedure, which can be found here:

General complaints | Bracknell Forest Council

7.3 The subjects of any formal action will have their rights of appeal set out in any enforcement notice they receive, or they will have the right to defend themselves in any court action taken.



Enforcement Options

8.1 There are several different notices and/or actions that can be taken by the Local Planning Authority. Some of these are summarised as follows:

- Planning Contravention Notice
- Enforcement Notice
- Enforcement Warning Notice
- Breach of Condition Notice
- Stop Notice
- Temporary Stop Notice
- Section 215 Notice
- Injunctive Action
- Formal Cautions
- Planning Enforcement Order
- Temporary Listed building Enforcement Notice
- TPO Enforcement Notice
- Discontinuance Notice for Advertisements
- Urgent Works Notice for Listed Buildings
- Direct Prosecution (for offences committed under advertisement or TPO regulations)
- Direct Prosecution (for non-compliance with other formal notices)
- 225A Removal Notices (advertisements)
- Tree Replacement Orders
- Listed Building Enforcement Notice
- Direct Prosecution for Listed Building offences
- CIL Stop Notices
- CIL Surcharges

8.2 The definition and purpose of some of these various options are contained within Appendix A, or a more complete outline of the enforcement tools available to the Council can be found on the government's national planning guidance pages:

Enforcement and post-permission matters - GOV.UK

Publicity

8.3 Whilst not a direct form of enforcement, officers may seek to raise awareness and increase compliance levels by making public, details of evidence of unlawful practice and any legal action taken where in their opinion it is appropriate to do so. This action will be taken in conjunction with the Council's communications team.

8.4 Where a breach of planning control has not yet been subject to formal enforcement action, the Planning Enforcement Team may, where lawful and appropriate, seek to make potential future purchasers aware of an ongoing investigation through information revealed in local authority property searches, publication on the Council's website, or by other appropriate means.

9. Additional Information

Monitoring the Implementation of Planning Permissions

9.1 Once planning permission is granted, the applicant may need to get formal approval of any details required by conditions. It is therefore imperative that landowners carefully read their permission once it is received ensuring that works do not commence on site in breach of planning conditions.

9.2 The onus is on the landowner and/or the developer to make sure that all the necessary consents are in place before work starts, and to make sure that all the conditions are complied with. The Planning Service will not issue reminders to the applicant of their responsibility to discharge conditions.

9.3 There is a requirement to inform the Planning Service when work starts on site if the development is subject to Community Infrastructure Levy (CIL). In addition, where building regulations approval is required and the developer uses the Council's building control service, the Council will be aware of the commencement of development. This information will be used to monitor schemes to ensure that:

- All pre commencement conditions have been discharged;
- any financial contributions that formed part of a section 106 agreement required prior to commencement of development have been received by the Council; and
- any payments due under the Community Infrastructure Levy have been received by the Council.

9.4 If conditions have not been discharged, a new investigation will be opened and conducted in accordance with the process set out above.

Liaison with Other Regulatory Bodies and Enforcement Agencies

9.5 Where there are breaches of wider regulations (e.g. noise nuisance), enforcement activities will be co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

9.6 Where an enforcement matter has impacts beyond the Borough boundaries or involves enforcement by one or more other local authorities or organisations, where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity coordinated with them.

9.7 Where appropriate, the officers may share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies including:

- Other Council Departments (such as environmental health, trading standards and council tax)
- Government Agencies
- Police Forces
- Fire Authorities
- Statutory Undertakers
- Other Local Authorities

9.8 The sharing of any specific information with other regulatory bodies and enforcement agencies will take place having due regard for the requirements of the Data Protection Act 2018.

Community Infrastructure Levy

9.9 Some development is liable to the Community Infrastructure Levy (CIL). The CIL regime is subject to The Community Infrastructure Levy Regulations 2010 details of which can be found here:

The Community Infrastructure Levy Regulations 2010

9.10 In the event that development requiring planning permission is carried out without permission, and the development would be CIL liable if permission were granted,formal enforcement action may be considered expedient because the CIL liabilities cannot be levied on the development without the appropriate planning consent being granted.

9.11 Investigation of non-compliance with CIL regulations and the subsequent enforcement of the regulations is not explicitly covered in this plan, save for the fact that the Council will seek to recover all liabilities owed, and will use the mechanisms (Surcharges and CIL Stop Notices) provided in the Community Infrastructure Levy Regulations 2010 as deemed appropriate and necessary to do so. Non-payment of CIL charges can attract daily surcharges and other fines.

9.12 The public are unlikely to report breaches of CIL regulations, and breaches are likely to be discovered through internal monitoring and review undertaken by the Council. A member of the public wishing to report a CIL breach can contact the Council's customer services by phone on 01344 352000, by email to customer.services@bracknell-forest.gov.uk or by post or in person at Time Square, Market Street, Bracknell, RG12 1JD.



10. Review of the Local Enforcement Plan

10.1 The Council will review this plan from time to time and at least every four years, in response to changes in legislation, relevant enforcement guidance and the Council's procedures. The Council will monitor performance against the plan targets, and the overall effectiveness of the Plan on an annual basis.

10.2 This document is not subject to formal public consultation. However, comments on this document will be welcomed and will be considered as part of the review process, (please email comments to development.control@bracknell-forest.gov.uk heading your e-mail Local Enforcement Plan).



Appendix A: Actions That Can be Taken by the Council

Planning Contravention Notice

A Planning Contravention Notice (PCN) may be issued where the Council suspects there may be a breach of planning control and requires information about activities on the land or to find out more about the interests in the land. It is an investigative tool allowing the Council to gather information enabling it to investigate a suspected breach.

A failure to complete or return a notice within 21 days, or providing false or misleading information in a notice is an offence. A person found guilty of an offence of failing to comply with the requirements of a PCN may be liable to a fine of up to £1000. A person found guilty of an offence of providing false or misleading information in response to a PCN may be liable to an unlimited fine.

Enforcement Notice

An Enforcement Notice (EN) is issued in the majority of cases where formal enforcement action is taken. It specifies the breach and sets out prescriptive steps, with specific timescales, for remedying the breach. A notice can be served where there has been a breach of planning control, which is defined as carrying out development without planning permission or failing to comply with a condition or limitation subject to which planning permission has been granted.

Any such notice must be served on the owners, occupiers and all other parties with an interest in the land that is materially affected by the notice. This notice is also entered onto the local land charges register and is disclosed if the land is sold or changes ownership, as the notice remains on the register unless and until the notice is withdrawn, quashed or otherwise cancelled in accordance with the relevant statutory procedures.

An Enforcement Notice must come into effect not less than 28 days after its date of service. There is a right of appeal to the Planning Inspectorate, as set out under Section 174 of the Town and Country Planning Act 1990 (as amended) and such an appeal must be lodged before the notice comes into effect. Where an appeal is submitted, the requirements of the notice are held in abeyance until the appeal has been decided. It is normal procedure for the Principal or Senior Planning Officer (Enforcement) to act as the lead officer when an appeal has been lodged under Section 174 of the Act.

Failure to comply with the requirements of an Enforcement Notice is a criminal offence. On conviction, the court may impose an unlimited fine, having regard to all the circumstances of the case, including any financial benefit arising from the offence.

Section 173A of the Town and Country Planning Act 1990 (as amended) gives Local Planning Authorities the power to withdraw an Enforcement Notice issued by them. Equally, the Planning Authority may relax or waive any of the requirements of the notice or extend the time for compliance. This can be done both before and after the notice has taken effect and all parties to the Notice will be informed.

The withdrawal of an Enforcement Notice does not limit the Council from reissuing or serving a further notice within the statutory time period.

Listed Building Enforcement Notice S.38 to 46 of the Planning (Listed Buildings and Conservation Areas) Act 1990

A Listed Building Enforcement Notice (LBEN) may be issued where there are works carried out to a listed building without listed building consent or in breach of a term or condition attached to a listed building consent.

It is very similar to the Enforcement Notice in that it specifies the unauthorised works to the relevant Listed Building and sets out the steps to be taken by the recipient to remedy the harm within a set timescale. It can be served on its own – for example, where unauthorised works to a listed building only required listed building consent and did not require planning permission – or it can be served in conjunction with an Enforcement Notice to ensure that all aspects of the breach are addressed. As with the EN, there is a right of appeal against the Listed Building Enforcement Notice, with the appeal having to be made before the notice takes effect.

Works to a listed building without the appropriate consents is a criminal offence. A local planning authority has also been given an express power to apply to the court for an injunction where it considers it necessary or expedient to restrain any actual or apprehended breach of planning control. The power is available whether or not the authority has exercised or is proposing to exercise any of its powers to serve an Enforcement Notice.

There is no time limit for service of a LBEN, meaning that breaches of listed building control may be enforced against the current owner of a listed building, no matter by whom the breaches were committed.

Separately from the remedies listed above, a person who carries out or allows to be carried out unauthorised works to a listed building may be prosecuted. If found guilty, the defendant may be liable to:

- An unlimited fine or up to six months imprisonment (or both) in a magistrates court.
- An unlimited fine or up to two years imprisonment (or both) in a Crown Court.

Temporary Stop Notices for Listed Buildings S44AA of the Planning (Listed Buildings and Conservation Areas) Act 1990

A temporary stop notice can be issued where it appears that works have been carried out to a listed building in breach of the listed building controls set out in section 9 of the Act such as carrying out works without the required listed building consent. The authority must also consider if the works could harm the building's special architectural or historic significance and whether the works should be stopped immediately

The notice remains in force for up to 56 days from the date it is displayed, or a shorter period if specified in the notice. The authority may also withdraw the notice before the expiry date, in which case it stops having effect immediately.

Stop Notice (S.183 of the Act)

A Stop Notice can only be served with an Enforcement Notice, although the latter can be served on its own. The service of a Stop Notice is essential where the local planning authority considers it expedient to stop an activity before the associated Enforcement Notice comes into effect. It is used as a means of stopping development that is likely to result in irreparable harm to the environment or where ongoing activities are causing a major adverse impact on the amenity of adjoining landowners.

There is no right of appeal against a Stop Notice which comes into effect no less than 3 days after service. An appeal against an Enforcement Notice will hold the requirements of that notice in abeyance, but the requirements of the Stop Notice to cease a particular activity remain effective. However, because a Stop Notice is preventing an activity from continuing, a claim for compensation may be made against the local planning authority in certain circumstances such as that the Notice is not upheld, varied or withdrawn and this will need to be weighed into the decision making process when considering the expediency of taking action. A Stop Notice cannot be issued against use of a building as a dwelling house.

Non-compliance with the requirements of a Stop Notice is an offence, a person, if found guilty, may be liable to an unlimited fine, and the court must have regard to any financial benefit arising from the offence when determining the penalty.

Temporary Stop Notice (S.171E of the Act)

This notice can be served independently of an Enforcement Notice and remains in effect for 56 days after which it may be followed up by an Enforcement Notice and if required a full Stop Notice. Once displayed on the land the notice takes immediate effect and is usually used as an emergency measure to cease development that poses immediate harm to local amenities. Non-compliance with this notice is an offence and can result in prosecution and if found guilty, a person may be liable to an unlimited fine.

Breach of Condition Notice (S.187A of the Act)

A Breach of Condition Notice (BCN) may be served where there has been a breach of a condition that is attached to an extant planning permission. There is no right of appeal against the service of such a notice, although it can be challenged by way of applying to the High Court for judicial review. The BCN will set out the necessary remedial action to ensure compliance with the condition being breached, with a minimum period of 28 days for compliance.

There are advantages and disadvantages to serving a BCN over an Enforcement Notice. However, where there is concern about the validity of a condition, the local planning authority is best advised to issue an Enforcement Notice that cites a breach of condition, therefore allowing the transgressor a right of appeal. This would prevent the need for a judicial review.

Currently the penalty for breaching the requirements of a BCN is an unlimited fine on conviction.

Enforcement Warning Notice

An enforcement warning notice formalises the process for a local planning authority to invite a retrospective planning application.

Under section 172ZA of the Town and Country Planning Act 1990, where a local planning authority considers that unauthorised development has a reasonable prospect of being acceptable in planning terms, it can issue an enforcement warning notice. The notice will set out the matters that appear to be a breach of planning control and state that, unless an application is made by a specified date, further enforcement action may be taken.

The issue of an Enforcement Warning Notice constitutes taking enforcement action for the purposes of section 171B of the Town and Country Planning Act 1990, in effect preventing gaining immunity from enforcement action.

Section 215 Notice (of the Act)

Where the Local Planning Authority is concerned about the condition of land or buildings, and where that condition is considered to be adversely affecting amenity, the Council can issue a notice under Section 215 of the Town and Country Planning Act 1990. This is sometimes known as an 'untidy land' notice.

Not only can a notice require land or buildings to be tidied, it can also require the demolition of derelict buildings. It should be noted that the land in question should be visible from public vantage points and have an impact on the amenity of the area for a Section 215 Notice to be served. There is a right of appeal against such a notice, but this is made to the Magistrates' Court.

The penalty for non-compliance with a s. 215 Notice is an unlimited fine and in case of a further non-compliance following the first conviction, a daily fine for each day of non-compliance with the requirements of the Notice of one-tenth of the greater of (i) £5,000 or (ii) level 4 on the standard scale of fines (£2,500)

Prosecution

The Council recognises the use of the criminal process to institute a prosecution as an important part of enforcement. It uses discretion in making such a decision because other approaches to enforcement may equally or more effectively resolve the matter. Where circumstances warrant, the Council will, however, pursue prosecution.

The Local Planning Authority will consider prosecution when one or more of the following apply:

- Prosecution is justified in the public interest, having regard to the need to maintain public confidence in the planning enforcement regime and to deter similar offences where there is a risk to public health and safety as a consequence of the breach;
- the offence was as a result of a deliberate act or following recklessness or neglect;
- the approach of the offender warrants it, e.g., repeated breaches, persistent poor standards;
- the breach is considered to seriously affect public amenity.

The decision to prosecute will also take account of the evidential and public interests and tests set down in the Code for Crown Prosecutors. http://www.cps.gov.uk/publication/code-crown-prosecutors. These include:

- the age and evidence of the state of health of the alleged offender
- the likelihood of re-offending; any remedial action taken by the alleged offender.

Before an enforcement notice and/or prosecution is taken, the alleged breach or offence will be fully investigated and a report compiled by the investigating officer who will make a recommendation as to the appropriate course of action to be taken.

Any decision to undertake a prosecution will consider whether such action is in the public interest, and whether there is sufficient evidence to bring successful proceedings.

Injunctive Action S.187B of the Act

Where the local planning authority deems it expedient to restrain (a legal term meaning 'to stop or prevent') any actual or apprehended (meaning that it is imminently about to happen – and can be evidenced) breach of planning control, it may apply to the High Court or the County Court for an injunction. Such an application can be made whether or not the local planning authority has exercised, or proposes to exercise, any of its powers to enforce planning control. The taking of such action is not to be taken lightly but is critical where ordinary enforcement powers are unlikely to stop unauthorised activities.

Failure to comply with the terms of an injunction is in contempt of court. The court has discretion to imprison anyone found to be in contempt, or to administer an unlimited fine.

Simple Caution

The Local Planning Authority will consider Simple Cautions as an alternative to prosecution. Examples of where they may be appropriate are:

- to deal quickly and simply with less serious offences;
- to divert less serious cases away from the court process;
- to deter repeat offences.

Before a caution is administered the officer will ensure:

- there is evidence of the offender's guilt sufficient to sustain a prosecution;
- the offender admits the offence;
- the offender understands the nature of the formal caution and agrees to be cautioned for the offence.

Simple cautions are administered in accordance with CPS guidelines Out of Court Resolutions | The Crown Prosecution Service and diversion. Simple cautions will only be issued where a person or party has not previously been issued with a simple caution within the Borough for a similar offence.

Planning Enforcement Order

Section 171BA of the Town and Country Planning Act 1990 (as amended) allows a local planning authority that discovers that a deliberate concealment of an apparent breach of planning control has occurred to apply to a magistrate's court for a planning enforcement order, within six months of discovery. That order allows the authority an 'enforcement year' in which to take enforcement action, even after the time limits in section.171B of the Town and County Planning Act 1990 (as amended) has expired.

Link to further information on Planning Enforcement Orders:

Enforcement and post-permission matters - GOV.UK

Planning enforcement orders can only be made by a magistrate. In assessing the local authority's application for a planning enforcement order the magistrate's court may make a planning enforcement order only if it is satisfied, on the balance of probabilities, that the "actions of a person or persons have resulted in, or contributed to, full or partial concealment of the apparent breach or any of the matters constituting the apparent breach. The court must also consider the application just to make the order".

The effect of a planning enforcement order is that the local planning authority will be able to take enforcement action against the apparent breach of planning control or any of the matters constituting the apparent breach during the "enforcement year". This means that once the "enforcement year" has begun, the local planning authority can at any time during that year, take enforcement action in respect of the apparent breach of planning control or any of the matters constituting that breach. The enforcement year commences at the end of 22 days starting with the court decision.

Enforcement on Crown land

Enforcement action is possible in relation to Crown Land, but there some restrictions which do not apply elsewhere. Subject to these restrictions, a local planning authority can serve a notice or make an order (other than a court order) intended to enforce compliance on Crown Land without having to follow any procedures other than those which are already set out in the planning acts as being generally applicable. There is no requirement to obtain the consent of the appropriate authority before serving the notice or making the order.

A local planning authority cannot, however, enter land for any purposes connected with the making or enforcing of any such notice or order without first securing the consent of the relevant Crown body. And, in granting such consent, the appropriate authority may impose such conditions as it considers appropriate. This might mean, for example, that any site visit by the local planning authority has to be accompanied, to take place at a pre-arranged time and/or to exclude certain parts of the site.

The local planning authority is also required to secure the consent of the appropriate authority before taking any action to enforce the notice or order, even against a non-Crown interest, such as a private leaseholder on a Crown freehold. This includes bringing proceedings or making an application to the courts.

The Crown is also immune from prosecution under these provisions.

Appendix B: Planning Investigation Phase Explanations

Investigation Phase 1 – Complaint receipt and logging

On receipt of a new complaint or notification regarding a breach of planning control, the matter will be registered and given a reference number. A case officer will be allocated to the investigation, and the complainant (where appropriate) will be acknowledged and notified of the case reference number, case officer, and the priority level of the case. Where it is clear that the allegation does not represent a breach of planning control from the outset, correspondence will be sent to that effect by the team. In the event that it may involve a breach of regulations of a different department of the Council or it is a civil matter, then the enquirer shall be responded to appropriately and a case may not be set up to investigate the enquiry unless it also comprises a breach of planning control.

Regarding the above, it may also be that the development does not require planning permission, express planning permission has clearly already been granted, or it complies with permitted development regulations. In these instances, the complainant/s will be notified and the case closed by the case officer. Sometimes it can be appreciated that a development complies with permitted development regulations or that the development already has planning permission from the information submitted by the enquirer; where this is the case a formal investigation may not be required to be set up and the enquirer can be responded to accordingly.

Investigation Phase 2 – Initial research and site visit

The case officer will normally undertake some initial research into the property history to see whether any previous investigations or relevant planning permissions exist for the development.

An initial site visit will be undertaken by the case officer in accordance with the case categorisation and performance targets, to establish whether the allegation is founded. This may be by appointment if access is required, or simply by viewing the site unaccompanied.

Officers serving as part of the Enforcement Team, are authorised officers of the Local Planning Authority, and have powers of entry (to land and property) under Sections 196A-C; 214B-D; 324 and 325 of the Town and Country Planning Act 1990 (as amended), and Section 88 of the Planning (Listed Building and Conservation Area) Act 1990, for the purpose of undertaking planning enforcement investigations. Where entry to a private dwelling house is required, at least 24 hours written notice will be given where formal powers of entry are sought to be used. An officer may however approach the occupiers of land/property (e.g. by simply knocking on the door) to request an invitation to access, whereby the occupiers may choose to volunteer (or not) to allow officers immediate access, without the use of formal powers of entry. An officer will always carry an ID card – and their identity can be checked by calling the Council's Customer Services department on 01344 352000.

Where allegations are unfounded (the alleged development has not occurred or does not represent a breach of planning control) the case will be closed and the complainant updated. Where the allegation appears to be founded, the investigation will progress.

In exceptional circumstances, the harm caused may be so immediately obvious or irreversible, that the Council may consider it necessary to issue immediate enforcement action, normally taking the form of a Temporary Stop Notice (TSN) or a Court Injunction. This would then allow for the rest of the investigation process to progress with appropriate protections in place.

Investigation Phase 3 – Information gathering and obvious remedies.

The next step in the investigation process would ordinarily require the Council to inform the property owner, occupier or developer that a breach has occurred, and sets out the steps necessary to remedy the breach of planning control usually inclusive of a timeframe within which works should be undertaken. It is important to explain the risks of potential enforcement action as early as possible, so that it does not come as a surprise later in the process. This step will therefore be formally done in writing and may include an appropriate requisition for information notice (either a PCN or a S330 Notice), the response to which helps the Council to ensure any enforcement notices or other action is properly carried out if it becomes necessary.

If throughout Phase 2 and early correspondence with a contravener it is proven that compliance shall be gained within a short timeframe it is at the officer's discretion as to whether to issue a deadline-inclusive missive and whether to explain the consequences of non-compliance within any such formal letter.

It is at this stage, if considered appropriate by the case officer, that an opportunity may be given to the developer to submit an application to the Council for consideration. The invitation to submit an application is made 'without prejudice' to the final decision on the application, which is required to be determined in light of the development plan and other material considerations, some of which may be highlighted during the statutory consultation period. Where the breach is clearly unacceptable, and the harm could not be overcome by imposing planning conditions on any planning permission, no application will be invited.

Where the developer, occupier or landowner claims lawfulness and there is evidence to support any such claim they may be invited to submit an application for a Lawful Development Certificate so the available evidence can be fully examined.

Where the investigation relates to an advertisement, and it is clear a breach of the regulations exist, or unauthorised works to protected trees or a Listed Building has occurred – an offence is being committed and the Council may commence gathering evidence in preparation for an instruction to the Borough Solicitor to consider prosecution.

Investigation Phase 4 – Consideration of planning harm

The Council will consider issuing formal enforcement action to ensure any harm caused by the breach of planning control is remedied if:

- no application is invited because the planning harm is so obvious,
- an offence has been committed such as display of an advert, unauthorised works to a listed building, unauthorised works to a protected tree;
- no application is received within a reasonable time period; or,
- an application is submitted but is refused by the Council.

The Case Officer will consider the merits of the development and whether planning harm exists in the context of policy, or other material planning considerations, unless an offence has been committed. In this eventuality, there is no requirement to consider planning harm before progressing to the next stage of assessing the proportionality, public interest test and protection of Human Rights before determining an appropriate course of action.

Negotiation about what lesser steps might be taken to retrospectively remedy unacceptable planning harm resulting from a development will normally only be considered as part of a planning application. Pre-application advice enquiries are not considered appropriate where the development already exists or is still being progressed. The enforcement process will not normally be held in abeyance for negotiations to take place outside a valid planning application. If the Council considers it appropriate, formal enforcement action may be taken despite the submission of a planning application where the harm from the breach is significant or negotiations have failed.

It does not automatically follow that the entire development must be removed, or enforcement action taken, simply because it does not have the proper consents. The target of enforcement action is the planning harm caused by the development, which may only relate to certain aspects of an unauthorised development.

In the event that, having considered all the relevant issues, formal enforcement action is authorised, formal Notices will be served, and/or the Borough Solicitor will be instructed in the case of prosecutions against offences committed for unauthorised advertisements, works to Listed Buildings or with regards to protected trees.

Alternatively, if it is considered on assessment of all the issues that no planning harm results from an unauthorised development (or breach of planning control) the case will be closed on the grounds that it is not expedient to take further action.

Any complainants and the landowner, developer or occupier will be updated at this stage about the outcome of this phase of the investigation.

Investigation Phase 5 – Appeals/Court Challenges

The procedure to be followed in the event of an appeal against a notice, or a court challenge is dictated by the relevant authority (The Planning Inspectorate or the Courts). The Council will endeavour to defend its actions in such cases and, where appropriate, recover any incurred costs resulting from unreasonable behaviour on the part of the appellant through the appeal process. (Costs go with the appellant not the agent, the agent is acting on their behalf).

Investigation Phase 6 – Compliance period

Once a notice has become effective, the Council will note the compliance date requirement in their systems. A site visit appointment will be carried out to check compliance shortly after the compliance period ends. If at the site visit, compliance with a notice is apparent, a letter will be sent to explain that compliance with the notice has been noted on file and the case will be closed. Where the owner occupier or developer has not fully complied with the requirements of the notice they will be informed that the investigation will progress to the next investigation phase.

Investigation Phase 7 – Prosecution

Periodically, the Council will review all outstanding notices that have expired compliance periods. Where appropriate, each case will be revisited and a witness statement produced evidencing any alleged offences committed for non-compliance. The witness statements will be bundled with copies of any relevant evidence and sent with instructions to the Borough Solicitor to consider prosecution for the offences committed subject to relevant tests.
'Prosecutors must apply the principles of the European Convention on Human Rights, in accordance with the Human Rights Act 1998, at each stage of a case. Prosecutors must also comply with any guidelines issued by the Attorney General; with the Criminal Procedure Rules currently in force; and have regard to the obligations arising from international conventions.'

The Council's Constitution sets out the Council's Scheme of Delegation. Delegated authority has been given to authorised officers to act in varying capacity according to their professional background and seniority. Delegated authority is exercised within a decision making process that is managed to ensure that the most appropriate enforcement action is taken, based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government.

Often, confidence in the planning system is lost because it appears to the public that developers profit from not complying with the rules. The Proceeds of Crime Act 2002 enables prosecuting authorities (i.e. the Council) to make applications to the Courts to confiscate the proceeds of any criminal activity in the planning system following a successful prosecution. Where the Council successfully prosecutes under the Planning Acts, the Council will consider applying for the Courts to confiscate any proceeds of crimes subject of the prosecution.

Investigation Phase 8 – Direct Action and Injunctions

Where all other measures have failed to remedy the harm caused by a breach of planning control, or where direct action by the Council is lawful, and the quickest and resource efficient way to remedy the breach of planning control, the Council will consider, where appropriate, using Direct Action powers to undertake works required to comply with a notice, or stop an offence from continually being committed. This normally would involve officers of the Council, or persons or organisations so instructed by the Council, physically carrying out operational works to ensure compliance is achieved. In all such circumstances, the Council will seek where possible to recover any incurred costs in carrying out such direct action works.

Alternatively, if considered appropriate, the Council might choose to apply to the Courts for an Injunction – seeking a court order for the landowner or developer to remedy a breach of planning control. This course of action may also be considered as an alternative to prosecution in the case of blatant breaches. To breach an Injunction granted by a court, represents an act of contempt of that court, and contraveners face possible imprisonment.

Appendix B: Diagram 1

Planning Enforcement. 8 phase Investigations/Flow Chart

Phase 1 - Complaint Receipt and Logging
Log complaint, acknowledge complainant, and set investigation priority level

Where a complaint is considered not to be a planning matter or has previously been investigated.

Phase 2 - Initial Research and Assessment
Research property history, assess allegation against regulation, conduct site visit, and issue a TSN if necessary

If a complaint is found to be unfounded, or it is discovered that planning permission has already been granted for the development.

Phase 3 - Information Gathering
Carry out Land Registry Searches and Issue Requisition for Information Notices such as S330 Notice or PCN

If the breach is immune from enforcement action, or is found at this stage not to be a breach of planning control.

Phase 4 - Consideration of Harm and Action
Consider the merits of the breach/offence and issue relevant notices/proceedings to remedy the harm caused

If planning permission is granted for a retrospective application, or there is no significant planning harm to be correct as a result of the breach.

Phase 5 - Appeals and Court Challenges
Follow due process to defend the Council's actions

If the Appeal is upheld and the notice quashed, or planning permission is granted under a ground A appeal.

Phase 6 - Compliance check
Check compliance with any formal action preparing witness statements where appropriate, and notify offenders

If the requirements of a notice have been complied with, within the relevant timescales.

Phase 7 - Prosecution
Where non-compliance with formal action persists Instruct the Borough Solicitor to prosecute

If the requirements of a notice have been complied with, following a prosecution, or the courts find some legal flaw in the notice.

Phase 8 - Direct Action
Instruct/Carry-Out Direct Action against breach

Where the council has removed the breach, and recovered incurred costs.

Close

Appendix C

All planning enforcement functions are currently delegated through the Council's constitution to the Executive Director: Place, with a limitation that any instruction to the Borough Solicitor to issue an Enforcement Notice or a Stop Notice can only be carried out in consultation with the Chair of the Planning Committee.

A range of other planning enforcement functions will be delegated (at the discretion of the Executive Director: Place) to other officers in accordance with the table below – which may be subject to modification from time to time to reflect operational needs.

Table of Delegation to Officers

Function	Delegated Officers	Limitations
Undertake investigations into alleged breaches of planning control, including carrying out site visits and conduct relevant correspondence	All officers working within the Development Management team.	As cases are allocated by the Principal or Senior Planning Officer (Enforcement) or Team Manager for Development Management
Allocate cases to officers for investigation	Principal Planning Officer (Enforcement): Senior Planning Officer (Enforcement):	No limitations In the absence of the Principal Planning Officer (Enforcement) or where the Principal Planning Officer (Enforcement) agrees to delegate.
Authorise the issue of Planning Contravention Notices (PCNs), or Section 330 Requisition for Information Notices and Section 16 Local Government (Miscellaneous Provisions) Act 1976	Principal Planning Officer (Enforcement): Senior Planning Officer (Enforcement): Team Manager (Development Management):	No limitations No limitations No limitations

Function	Delegated Officers	Limitations
Authorise the closing of a planning enforcement investigation	Principal Planning Officer (Enforcement), Team Manager (Development Management), Assistant Director: Planning Senior Planning Officer (Enforcement):	Where a case is not considered to represent a breach of planning control, or any other case where another officer has made a recommendation. Where a case is not considered to represent a breach of planning control, or any other case where another officer (other than the Principal Planning Officer of Enforcement) has made a recommendation.
Authorise the issue a Temporary Stop Notice, or a Section 225A Removal Notice	Team Manager (Development Management) or the Assistant Director: Planning	Only where recommended by the Principal Planning Officer (Enforcement) or Senior Planning Officer (Enforcement)
Instruct the Borough Solicitor to issue an Enforcement Notice; Stop Notice; Section 215 Notice; or, to seek an Injunction from the Courts	Team Manager (Development Management) or the Assistant Director: Planning	In consultation with the Chair of the Planning Committee.
Authorise the instruction of the Borough Solicitor to prosecute under any powers within the Planning Acts	This authority will normally only be exercised by the Executive Director: Place or Assistant Director: Planning	None
Authorise direct action, to effect compliance with the requirements of a formal notice already issued	This authority will normally only be exercised by the Executive Director: Place or Assistant Director: Planning	None
Authorise direct action to deface or obliterate or remove unauthorised advertisements under Section 224 or 225 of the Town and Country Planning Act (as amended)	Principal Planning Officer (Enforcement): Senior Planning Officer (Enforcement): Team Manager (Development Management):	Where the cost of direct action would amount to less than £200.00 Where the cost of direct action would amount to less than £100.00 Where the cost of direct action would amount to less than £500.00