

# Planning enforcement – overview

Summary from <https://www.gov.uk/guidance/ensuring-effective-enforcement>

## What is a breach of planning control?

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 as:

- the carrying out of development without the required planning permission; or
- failing to comply with any condition or limitation subject to which planning permission has been granted.
- Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015, constitutes a breach of planning control against which enforcement action may be taken.

## Who can take enforcement action?

Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas.

## When should enforcement action be taken?

Local planning authorities have discretion to take enforcement action when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 58.

## What are the time limits for taking enforcement action?

In most cases, development becomes immune from enforcement if no action is taken:

- within 4 years of substantial completion for a breach of planning control consisting of operational development;
- within 4 years for an unauthorised change of use to a single dwelling house;
- within 10 years for any other breach of planning control (essentially other changes of use).

These time limits are set out in section 171B of the Town and Country Planning Act 1990.

## Why is effective enforcement important?

Effective enforcement is important to:

- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- maintain the integrity of the decision-making process;
- help ensure that public acceptance of the decision-making process is maintained.

## Why are local enforcement plans important?

The preparation and adoption of a local enforcement plan is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;
- provides greater certainty for all parties engaged in the development process.

## What options are available to local planning authorities to tackle possible breaches of planning control in a proportionate way?

No formal action

Retrospective planning application

Planning contravention notice

Enforcement Notice

Planning Enforcement Order

Stop Notice

Temporary Stop Notice  
Breach of Condition Notice  
Injunction  
Rights of entry  
Enforcement on crown land  
Listed Building enforcement

### **Is there a public register of enforcement action?**

Local planning authorities must maintain a register of enforcement and stop notices (section 188 of the Town and Country Planning Act 1990 and article 43 of the Town and Country Planning (Development Management Procedure (England) Order 2015). It is important that, as soon as possible, details of the following actions should be recorded on the register:

- enforcement notices;
- stop notices;
- breach of condition notices;
- planning enforcement orders.

### **No formal action**

Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost-effective way of achieving a satisfactory and lasting remedy.

### **Retrospective planning applications**

A local planning authority can invite a retrospective application. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application (section 73A of the Town and Country Planning Act 1990) without delay. It is important to note that:

- although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way;
- an enforcement notice may also be issued in relation to other elements of the development.

### **Planning contravention notice**

A planning contravention notice may be issued under section 171C of the Town and Country Planning Act 1990 and can be used to do the following:

- allow the local planning authority to require any information they want for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
- can be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.

### **Enforcement notice**

The power to issue an enforcement notice is discretionary (section 172 of the Town and Country Planning Act 1990).

An enforcement notice should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.

An enforcement notice should enable every person who receives a copy to know:

- exactly what, in the local planning authority's view, constitutes the breach of planning control; and
- what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach

A local planning authority may decide not to require action be taken to remedy the whole of a breach of planning control. This is known as "under enforcement".

Where an enforcement notice identifies a breach of planning control which could have required any buildings

### **Planning enforcement order**

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action (section 171B of the Town and Country Planning Act 1990) have expired. A planning enforcement order enables an authority to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

### **Stop notice/**

A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in the related enforcement notice, ahead of the deadline for compliance in that enforcement notice (section 183 of the Town and Country Planning Act 1990).

A stop notice cannot be served independently of an enforcement notice.

### **Temporary stop notice.**

Temporary stop notices are a powerful enforcement tool that allows local planning authorities to act very quickly to address some breaches of planning control, such as unauthorised activities, where it is expedient to do so. Temporary stop notice may prohibit a range of activities, including those that take place on the land intermittently or seasonally.

A temporary stop notice (section 171E of the Town and Country Planning Act 1990) requires that an activity which is a breach of planning control should stop immediately.

### **Breach of condition notice**

A breach of conditions notice requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the local planning authority in the notice (section 187A of the Town and Country Planning Act 1990).

Any recipient of a breach of condition notice will be in breach of the notice if, after the compliance period, any condition specified in it has not been complied with, and the steps specified have not been taken or the activities specified have not ceased.

### **Injunction**

A local planning authority can, where they consider it expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control (section 187B of the Town and Country Planning Act 1990).

### **Rights of entry**

Local planning authorities and Justices of the Peace can authorise named officers to enter land specifically for enforcement purposes (sections 196A, 196B and section 196C of the Town and Country Planning Act 1990). This right is limited to what is regarded as essential, in the particular circumstances, for effective enforcement of planning control.

### **Enforcement on Crown land**

Enforcement action is possible in relation to Crown Land, but there are some restrictions which do not apply elsewhere. Sections 296A and 296B of the Town and Country Planning Act 1990 restrict such actions as serving enforcement notices, stop notices, revocation orders and discontinuance orders on the Crown.

**Listed building enforcement.**

The listed building enforcement provisions are in sections 38 to 46 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the enforcement provisions relating to the demolition of an unlisted building in a conservation area ("relevant demolition") are in the Town and Country Planning Act 1990. Although broadly similar, there are a number of important differences between planning enforcement and listed building and conservation area enforcement, namely:

- there are no application fees for listed building consent or applications for relevant demolition;
- there are no time-limits for issuing listed building enforcement notices or for when enforcement action may be taken in relation to a breach of planning control with respect to relevant demolition, although the length of time that has elapsed since the apparent breach may be a relevant consideration when considering whether it is expedient to issue a listed building enforcement notice;
- carrying out work without the necessary listed building consent, or failing to comply with a condition attached to that consent, whereby such works etc materially affect the historic or architectural significance of the building, is an offence under section 9 of that Act – whether or not an enforcement notice has first been issued;
- carrying out work without the required planning permission for relevant demolition, or failing to comply with a condition attached to that planning permission is an offence under section 196D of the Town and Country Planning Act 1990, and;
- listed building consent and planning permission for relevant demolition are not granted retrospectively.