



Planning: Local Enforcement Plan

Updated October 2016



ASHFORD
BOROUGH COUNCIL



1. The council's approach to Planning Enforcement

This council puts great value on the quality of life and local environment that local people enjoy – in the borough's countryside, towns and villages. In all its work on planning and development the council tries to drive a 'quality agenda', recognising how important development is in creating economic growth and meeting the community's needs, but also the need to control inappropriate and unauthorised development.

When development takes place without permission and causes significant impacts on people's lives, residents of the borough understandably expect that action should be taken.

This Local Enforcement Plan sets out how the council can and will respond. We will follow Government advice which encourages councils to try to resolve issues by negotiation as this is very often the quickest and most effective way to resolve problems. It is also the best way to use resources - taking formal action, assuming it succeeds, can be a much longer process than people imagine and consumes a lot of staff time.

But where negotiation fails, or individuals deliberately or persistently ignore the rules and carry out development that seriously impacts on the wider community, then there should be no doubt that the council will take formal action whenever possible.

In a typical year approaching 350 potential breaches of planning control are reported to us. A large proportion of these (around 40%) turn out to be development that is permitted and where no action can be taken. The next section of this plan explains what is – and what is not – a breach.

2. What is and what is not a breach of planning control?

A breach could involve such matters as the unauthorised erection of a building or extension to a building, a 'material' change of use of land, or the display of unauthorised advertisements. Other examples of potential breaches of planning control are:

- Unauthorised works to Listed Buildings;
- Unauthorised works to trees subject of a tree preservation order (TPO) or in a conservation area;
- Breaches of conditions attached to planning permissions;
- Not building in accordance with the approved plans of planning permissions;
- Untidy land which has a significant impact on the amenity of the wider area;
- Unauthorised engineering operations, such as raising ground levels or earth bunds.

The following examples are **NOT** normally breaches of planning control:

- Internal works to a building that is not listed;
- Parking of commercial vehicles on the highway or on grass verges;
- Running a business from home, where the residential use remains the primary use
- Land ownership disputes or trespass issues;
- Infringements of covenants in property Deeds;
- Any works that are deemed to be 'permitted development' under the relevant Government regulations (for example, extensions within specified size limits).

3. How do I report a breach?

To help us deal with your case as soon as possible it is important to provide as much information as you can. Below is a list of the type of information that would assist us in dealing with your complaint:

- An accurate description of the location or address for the particular site;
- A detailed description of the activities taking place and why they are cause for concern;
- Names, addresses and phone numbers of those persons responsible for the alleged breach or the land owners;
- The date and times of when the alleged breach took place;
- Any other information or evidence (including photos) that may be able to assist;
- Your name and address or e mail address.

Complaints about alleged breaches can be made by e-mail; letter; or telephone providing the complainant gives their name, address and telephone number. We do not usually investigate anonymous complaints unless we can clearly identify the alleged breach of planning control.

4. The council's commitment to you

We will:

- **INVESTIGATE ALL ALLEGED BREACHES OF PLANNING CONTROL** – see the section above on 'How to report an alleged breach';
- **KEEP YOUR PERSONAL DETAILS CONFIDENTIAL** at all times, unless required to disclose as part of court proceedings;
- **QUICKLY REGISTER AND ACKNOWLEDGE YOUR CASE** according to its priority level and provide you with a reference number with a named officer as the point of contact;
- **GIVE EACH CASE A 'PRIORITY RATING'** (see approach set out below) and visit the site within the timescales set;
- **ACTIVELY PURSUE YOUR CASE AND KEEP YOU INFORMED** of progress until the case is closed when we will let you know the outcome;
- **SEEK TO CLOSE 80% OF ALL CASES WITHIN 12 WEEKS.** Investigations into alleged breaches of planning control can be complex and may take some time but we will aim to hit this target.

On receipt we will categorise breaches by priority – the priority may change once we have been able to visit the site and fully assess the situation. The categories are as follows:

HIGH PRIORITY: When irreversible and serious damage to the environment or public amenity would result. Examples include works to protected trees; works affecting the character of a listed building; demolition works in a conservation area; serious traffic safety hazards; contamination and or pollution being created, unauthorised caravan sites, or other development where there is actual or imminent residential occupation.

MEDIUM PRIORITY: This covers less immediate yet still serious and harmful breaches and is likely to include breaches where building works have just commenced, where severe harm is being created and also non-compliance with certain planning conditions (particularly pre-start conditions).

LOW PRIORITY: This category relates to breaches that are likely to remain stable and that are unlikely to give rise to any severe or lasting harm to amenities. Such breaches may include untidy sites, non-compliance with other planning conditions, erection of satellite dishes, the unauthorised display of advertisements and the erection of fences.

OUR APPROACH	Acknowledge; set up case and prioritise	Site visit and initial contact/ advice	Update informant; ward member and Parish Council
High Priority within 24 hours	Within 24 hours	Within 24 hours	Within 48 hours
Medium Priority	Within 3 working days	Within 7 working days	Within 5 working days after site visit
Low Priority	Within 3 working days	Within 15 working days	Within 5 working days after site visit

What happens when a breach has been reported?

There are various possible outcomes:

- **NO BREACH EXISTS** – Following a site inspection it may be found that there is no breach of planning control because, for example, the unauthorised use has ceased, or the development is permitted or lawful development. Typically this accounts for around 40% of the cases reported to us;
- **THERE IS A BREACH OF PLANNING CONTROL BUT NOT ‘EXPEDIENT’ TO PURSUE** – Just because a breach may exist does not automatically mean that formal action will be taken. It is a common misconception that a breach of planning control is a criminal offence and should automatically attract enforcement action. Central Government Guidance in the National Planning Policy Framework (NPPF) clearly sets out that enforcement powers are discretionary. In turn, minor technical breaches that have only a small impact may not warrant the time and expense in taking action;
- **NEGOTIATIONS TAKE PLACE TO FIND A SOLUTION** – The first priority is to try and resolve any breaches through negotiation. When such negotiations fail to secure a solution formal action will be considered - the council will not allow negotiations to become protracted.
- **A RETROSPECTIVE APPLICATION IS APPROVED** - A retrospective application will be invited where there is a reasonable likelihood that planning permission may be granted in line with local and national planning policies or where a development may be made acceptable by way of imposing suitable conditions to control how it takes place.
- **FORMAL ACTION IS TAKEN** - On average between 5- 10% of cases we receive result in formal action being taken. There are a range of formal powers the council can use to remedy breaches of planning control. The more common forms of enforcement action are listed on the next page:

Type of enforcement action	Purpose
Planning Contravention Notice	Requires persons to divulge information in respect of land and activities. Often under-taken to determine if there is a breach of control and to help decide the appropriate course of action.
Breach of Condition Notice	Secures compliance with conditions specified within a planning permission.
Enforcement Notice	Requires particular steps to be taken to remedy the situation – there is a right of appeal.
Stop Notice / Temporary Stop Notice	Requires the unauthorised activities to cease either immediately or for a period of up to 28 days.
Community Protection Notice	To direct the individual, business or organisation causing ongoing problems or nuisances that affect the community's quality of life to stop.
Section 215 Notice	To secure the proper maintenance of land and buildings and protect public amenity.
Direct Action	The council may enter land to take the necessary steps to secure compliance with an Enforcement Notice. This is at the council's cost although these are recoverable from the landowner.
Injunctions	To prevent unauthorised development and only used in a very limited number of specific circumstances.
Prosecution	Failure to comply with a notice is a criminal offence. To secure compliance with any formal enforcement notice and / or to bring the offence before the court.



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