

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



**TO EACH MEMBER OF THE
SUSTAINABLE COMMUNITIES OVERVIEW & SCRUTINY COMMITTEE**

05 January 2016

Dear Councillor

**SUSTAINABLE COMMUNITIES OVERVIEW & SCRUTINY COMMITTEE - Thursday 14
January 2016**

Further to the Agenda and papers for the above meeting, previously circulated, please find attached the following additional report(s):-

12. Planning Enforcement Review

To receive the report and recommendations of the planning enforcement enquiry in order to endorse the recommendations and seek a response from the Executive as to their application.

Should you have any queries regarding the above please contact the Overview and Scrutiny Team on Tel: 0300 300 4193

Yours sincerely

Rebecca Preen
Scrutiny Policy Advisor
email: rebecca.preen@centralbedfordshire.gov.uk

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Central Bedfordshire Council

Sustainable Communities Overview and Scrutiny Committee

14 January 2016

TITLE OF REPORT: Outcomes of the scrutiny enquiry of planning enforcement

Report of: Cllr Ken Matthews, Chairman of the Enquiry

Advising Officers: Jason Longhurst, Director of Regeneration and Business (Jason.longhurst@centralbedfordshire.gov.uk), Peter Keates, Head of Development and Regulation (peter.keates@centralbedfordshire.gov.uk) and Rebecca Preen, Scrutiny Policy Adviser (rebecca.preen@centralbedfordshire.gov.uk)

Purpose of this report

1. To summarise the findings of the planning enforcement enquiry and to provide recommendations for the improvement of the Planning Enforcement Service.

RECOMMENDATIONS

The Committee is asked to:

1. Approve the recommendations resulting from the enquiry (paras 30 to 43) subject to any additional input as may be necessary.
2. Request a performance monitoring report be submitted to the Committee 6 months after implementation of the recommendations.

Background

2. At their meeting on 20 August 2015 the Sustainable Communities Overview and Scrutiny Committee (SCOSC) requested a review of the Planning Enforcement Service in light of concerns raised by Members.
3. An enquiry was formed of Cllr K Matthews, Cllr B Saunders, Cllr A Graham and Cllr R Johnstone who undertook to review the subject and report back to the SCOSC with their findings.

National Context

4. Central Government guidelines provide a framework to assist Local Authorities in shaping their policies with regards to Planning Enforcement.

5. In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

6. The primary function of Planning Enforcement is to investigate alleged breaches of planning control which includes:-

- Carrying out development without the required planning permission;
- Failure to comply with conditions or limitations subject to which planning permission has been granted;
- Unauthorised advertisements; and
- Unauthorised Gypsy and Traveller incursions.

7. The local planning authority cannot take enforcement action where development has planning permission, is built to plan in accordance with conditions, within permitted development rights or when it is not expedient to do so (for example whether the breach would cause harm, be detrimental to the area, or the existing use of land and buildings merit protection in the public interest).

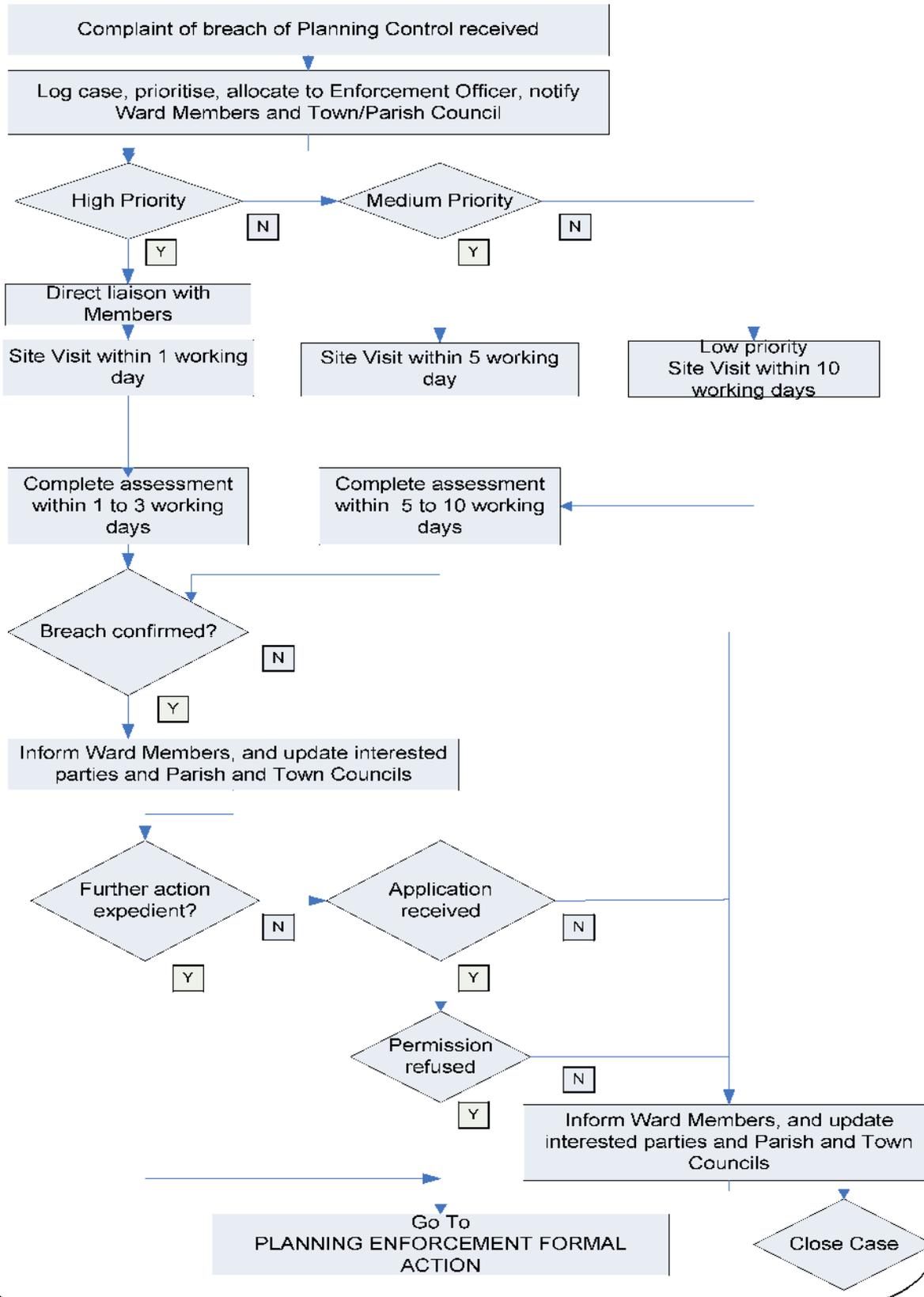
8. In assessing the need for enforcement action and after investigation of any breach, where it is considered likely that planning permission would be granted for the development, it is appropriate to invite a retrospective planning application.

Current Practice in Central Bedfordshire

9. In setting the context for the enquiry Members examined the Council's current Enforcement Plan and agreed that it was readily available to Members and the public via the Council's website and had been written in accordance with guidelines published by Central Government.

10. The Plan included a procedural flow chart (below), which Members felt was very useful and needed greater prominence, with a clearer explanation as to what constituted a low, medium or high priority. Members agreed it would also be useful for these priorities to be communicated to complainants, with a detailed explanation as to the rationale behind the decision.

Flow Chart 1 – Planning Enforcement Process



11. Members inspected the Enforcement Plans of other Local Authorities and found many similarities with that of Central Bedfordshire. Members also identified some cases of good practice, which could be adopted by the Council when reviewing the existing Plan. These aspects of good practice are detailed within the recommendations of this report.

Member Evidence

12. To support the enquiry all Council Members were invited to submit any cases or concerns in relation to planning enforcement which they felt merited further investigation. Members were asked to focus their evidence around the themes of the current Plan. A total of 8 responses were received via an online questionnaire, email and in person, detailing experiences from across Central Bedfordshire. In summary these related to the following:-

- Slowness of response to a Gypsy and Traveller (G&T) matter where the flood plain was being eroded for building purposes by depositing high volumes of hardcore.
- Several incidences where responses had not been provided to emails sent to the service, where communication had been poor and updates on progress had not been provided.
- Failure to complete agreed conditions.
- Failure to act upon information provided with regards to potential illegal activity, provide clarity on land ownership or provide an update on progress.
- Apparent reluctance to act if there was the possibility of a successful appeal.
- Concerns regarding the transparency of the activity carried out by the service.
- The need for a greater degree of process that is followed consistently.
- Inconsistency as to whether Members were aware that the out of hours service had been withdrawn.

13. In light of the enquiry and the individual cases raised by Members, further investigation was undertaken and Ward Members updated accordingly.

14. In addition to the evidence received by Members the enquiry reviewed the manner in which the current process was applied to consider whether it was fit for purpose and met the needs of complainants. The enquiry concluded that the Plan was sound in principle but that procedures detailed within the Plan were not always followed and there were improvements that could be made, which are set out in detail in the sections that follow.

Resources and demand management

15. During 2014/15 there were 557 cases dealt with by the Planning Enforcement team, which is currently run as a reactive service. There is presently a very minimal amount of compliance activity undertaken.
16. Complaints and cases are received by the service in person, by letter, email or telephone and are acknowledged within 3 working days in accordance with policy, although the time taken to provide a response is dependent upon the priority allocated to the individual case.
17. The Council previously had an automated response to Planning Enforcement enquiries detailing the timescales and procedures applied by the service. This automated response was removed in December 2014 and this may have led to a negative impact upon response times and detrimentally affected customer perception of activity. Members agreed that further consideration should be given to reinstating this automated response, taking into consideration imminent changes to IT systems within the department and across the Council.
18. In April 2014 as an efficiency saving, the Council also removed the out of hours service provided by public protection which included limited cover for planning enforcement. There had been no out of hours planning enforcement cases logged within the previous 12 months.
19. Members reviewed the nature of customer contact with the service, during which it became apparent that the service was often contacted in relation to cases that did not involve breaches of planning enforcement. This diverts valuable resource and time, which could otherwise be used to support genuine planning enforcement cases. The most common non related cases are general planning enquiries, the control of vehicles on the highway, fly tipping and mud on the road. Members agreed a mechanism was required to efficiently filter queries that did not relate to planning enforcement. This could include education and preventative measures and the potential review of the triage system to filter out and respond to non-planning enforcement related enquiries.
20. The Council's Enforcement Team currently consists of a total investigative resource of 5.07 FTE. Members were keen to understand if this was comparable to that of neighbouring and other similar sized unitary authorities. A benchmarking exercise was undertaken (see appendix B) to provide a comparison to other authorities and whilst it cannot be ensured that all local authorities have provided data in the same fashion it does provide a useful comparison. Appendix B demonstrates that CBC is similar to some authorities when comparing caseload to FTE equivalent although in some cases it differed dramatically. Members agreed the Council should seek to understand the differences with other local authorities further in order to shape the service going forward.
21. In light of the existing resource and the benchmarking exercise Members concluded they had concerns relating to the deployment of staff and the team structure. In the absence of a full time team leader it was agreed that additional cover should be provided in order to ensure continuity of service. Due to HR constraints and difficulties relating to funding additional

resources it was agreed this should be investigated within the existing team structure.

22. The enquiry also agreed that due to a lack of compliance measures the service was too reactive and could be more preventative. Members agreed the service should investigate how compliance could be enhanced within the existing team structure.

Communication, timescales and prioritisation

23. Members agreed there were inconsistencies with the implementation of the current Enforcement Plan, particularly around communication and adherence to response times. Members agreed that information was not communicated as effectively as it could be and it was clear that on occasion complainants had to chase the information they required. There was also a perception that response times as detailed within the Plan were not adhered to although it was felt that this could be due to poor communication.
24. It was important to ensure that information was shared in a clear and transparent manner and for Town and Parish Councils to be aware of the process in order to raise a wider public awareness of procedures. In order to improve this, Members agreed the service should investigate the possibility of engaging the Partnership team to support the dissemination of information.
25. Members also agreed that a detailed explanation of the priority attributed to a case and why it had been deemed such should be included within any response to complainants so as to support transparency of the process.
26. To further promote awareness of the remit of planning enforcement, encourage self-service and to filter and redirect enquiries Members agreed that further information should be made available via the Council's digital channels.
27. In light of the enquiry the service acknowledged that communication could be improved and agreed to seek to address this issue quickly.

Enforcing planning conditions

28. In response to comments during the enquiry that the service was reluctant to carry out enforcement action, Members reviewed some specific examples of planning conditions to determine the extent to which they could be enforced. Members reviewed the following examples:-
- 'The outbuilding hereby approved shall be finished in dark green colour or any other dark colour to be agreed in writing by the Local Planning Authority.'

This is unenforceable as there is no time frame over the provision of the appropriate colour, and wording too vague - 'dark colour'.

- 'Condition 1: - Within 3 months of the date of this permission a scheme for the parking of vehicles on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall define areas for customer and staff car parking and those for the storage of end of life vehicles. The scheme shall be fully implemented within 1 month of approval and thereafter retained for that purpose. Reason: To ensure sufficient provision of car parking clear of the highway.'
- Condition 3: - No vehicles which have been left with or are in the control of the applicant shall be stored or parked in King Street or Walkley Road. Reason: To prevent the obstruction of the highway.'

A Breach of Condition Notice was served in respect of Condition 1, a scheme has now been approved and implemented, however it does not completely prevent parking on the highway, and Condition 3 is unenforceable because 24/7 monitoring would be required and there would be no way of knowing which vehicles were in the control of the applicant.

- 'Prior to commencement of the development hereby approved detailed plans and proposals shall be submitted to and approved in writing by the local planning authority of the measures to be taken on site to ensure that West End Road is only used by those who already have access to the existing properties in West End Road and West End Lane and the occupiers and visitors to the three dwellings approved on Plots 38 - 40 and by no one else in association with the development hereby approved. Reason: In the interest of highway safety.'

Several complaints from local residents and the Ward Member have been sent to planning enforcement. We have received and approved details for Condition 4 but cannot formally enforce as there is no requirement for the approved scheme to be implemented and no time scale for this to be done.

29. In light of the examples cited, Members agreed that close liaison and effective communication between planning officers and enforcement colleagues was vital to ensure that conditions were sound and appropriately applied so that enforcement action could be undertaken if necessary.

Recommendations of the enquiry:-

30. **That the Planning Enforcement Team's communication strategy be updated and enforced and that the automated email response**

detailing timescales and processes be reinstated during the current review of IT systems.

31. That complainants and Ward Members receive notification of any breach of planning conditions in their area and that the level of priority of each case be set out with a clear rationale for the level of priority. Notification should also be provided when cases are not considered to be a breach of planning conditions with a detailed explanation as to how this conclusion was determined.
32. That the Planning Enforcement Team implement reasonable timescales for retrospective planning applications, taking into consideration the complexities of each case and adhere to timescales appropriately.
33. That the quality of information sharing be enhanced through collaboration with the Partnership Team to coordinate the dissemination of information, as far as it is allowed for by law or other means, to Town and Parish Councils, increasing public awareness of planning enforcement processes.
34. That communication be improved between Enforcement Officers and Planning colleagues in order to gauge whether conditions are enforceable. In order to achieve this it is recommended that it be included in the wider communication strategy within the department.
35. That to support the efficient use of part-time staff, planning enforcement cases be shared across the team. In the absence of a dedicated officer, cases to be allocated to colleagues via a triage system, orchestrated by a suitably trained member of staff with regard being given to the urgency of the case.
36. That in the absence of a full time team leader, responsibilities be shared, where appropriate, across the team and measures introduced to ensure staff cover.
37. A review of out of hours cover for planning enforcement service to be undertaken to establish if a service similar to that operated by Building Control can be introduced or other cover arrangements can be put in place within existing budgets.
38. That the department proactively seek preventative measures through the analysis of existing complaints. The service should ascertain whether enhancing the monitoring of compliance would reduce the number of enforcement actions undertaken.
39. That the current Enforcement Plan be updated to include a clearer explanation of processes and a separate flowchart including detailed timescales.
40. That the contact list within the Enforcement Plan be updated with details of the most appropriate methods of communication and the best practice included in the examples provided by St Albans (succinct and user friendly) and Bristol (specifically Appendices 2-4).
41. That the Plan be updated to include Gypsy and Traveller legislation.

42. **That a Member Protocol be developed alongside the updated Enforcement Plan and communicated to all Ward Members.**
43. **That processes within the current and future plan be adhered to, particularly with regards to high priority cases.**

Reason/s for decision

44. The evidence considered by this enquiry highlighted the need to review the existing service in light of the number of concerns raised. Due to the number of cases dealt with each year and the constant flow of communication received by the Council from the public and Members it is important that the Council provides a robust service. The recommendations detailed in this report will support the delivery of a robust service.

Council Priorities

45. The improvement of the Planning Enforcement Service directly addresses the Council's priority of Enhancing Central Bedfordshire and ensuring a more efficient and responsive Council.

Corporate Implications

Legal Implications

46. Where the recommendations merely seek to clarify and better explain the current processes within the Council's Policy they do not give rise to legal implications. It should however be noted that substantial changes to the Policy would be an Executive function in any event.
47. The recommendations relating to staff duties and the out of hours service may result in changes to terms and conditions of employment. This will require the relevant employment law and legislation to be followed to ensure any such changes are carried out lawfully.

Financial Implications

48. The recommendations of the enquiry propose the increase of the team leader role to 1 FTE, for which there are currently no funds allocated.
49. The recommendations also propose the reinstatement of the out of hours service, which may require a change in staff terms and conditions and could lead to further financial implications.

Equalities Implications

50. The Council has a duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics. The

recommendations included in this enquiry relate to several aspects of communication with residents and the application of existing committee procedures. If implemented it is envisaged that the recommendations would enhance communication with all residents in Central Bedfordshire.

Conclusion and next Steps

51. The Committee are asked to review the recommendations detailed in the report (paras 30 to 43) and agree that they be presented to the Executive and implemented.
52. In light of the enquiry the Planning Enforcement team have already begun to address many of the issues raised and it is anticipated that further improvements will be made as a result of the recommendations detailed in the report.
53. Once the recommendations have been approved the service has agreed to present a 6-month performance monitoring report, at which point progress can be measured and further recommendations made as appropriate.

Appendices

Appendix A – Task Force scoping document

Appendix B – Other Local Authority Benchmarking data (anonymised)

Appendix C – Other Local Authority Enforcement Plans

Background Papers

54. The following background papers, not previously available to the public, were taken into account and are available on the Council's website:

National Planning Policy Framework – Central Government paper

Town and Country Planning Act 1990 – Central Government paper

Planning Enforcement Government Guidelines

CBC Enforcement Plan

New Government Gypsy and Traveller documents – Dealing with Illegal and Unauthorised Encampments and Planning and Travellers' Policy

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Review of Planning Enforcement concerns in Central Bedfordshire

Commissioning Body:	Sustainable Communities Overview and Scrutiny Committee		
What is the broad topic area:	To provide the final recommendations for improving the Planning Enforcement service.		
Membership:	Cllr Ken Matthews, Cllr Brian Saunders, Cllr Charles Gomm, Cllr Alison Graham		
Portfolio Holder(s):	Cllr Nigel Young		
Summary of task			
<p>The review will gather evidence on :</p> <ul style="list-style-type: none"> • Planning enforcement processes and performance management. • Current resources and caseload. • Challenges and opportunities. • Case studies and anecdotal evidence. • Quality of the service. 			
What will be the outcome and how will it add value?			
<ul style="list-style-type: none"> • To ensure an open and transparent service which communicates effectively with internal and external partners and customers. • To ensure effective and thorough investigations of planning enforcement cases, providing clear resolution and outcomes. 			
Any potential risks to completing the review:			
<ul style="list-style-type: none"> • Reputational risks to the Council. 			
Who and how do we consult?	<ul style="list-style-type: none"> • To consult with elected Members and Officers. • Information to be gathered via the Member Information Bulletin and face to face meetings. • To formulate a protocol regarding the calling of evidence. 		
Meeting Frequency (and potential dates):	<ul style="list-style-type: none"> • An inception meeting on 23 September 2015 to be followed with fortnightly meetings. 	Publicity (of recommendations):	Sustainable Communities OSC Minutes (public document)
Proposed Completion date:	December 2015		
Proposed date to CMT	TBC	Proposed date to Exec:	NA
Proposed date to SC OSC	December 2015	Proposed date to Council	NA

Background Papers: -

- **The Enforcement Plan – Central Bedfordshire Council**
- **The Development Strategy – Central Bedfordshire Council**
- **National Planning Policy Framework – Central Government paper**
- **Town and Country Planning Act 1990 – Central Government paper**

- **Dealing with illegal and unauthorised encampments**
- **Final planning and travellers policy**

Item 12 Appendix B

Anonymised Unitary and neighbouring Local Authority data to include caseload to staff ratio. FTE excludes Admin support as they are not investigative officers.

None of the benchmarking authorities notify Members unless they are the complainant, except CBC. All other authorities have indicated an imminent review of their plans and have expressed the view that additional resource would be beneficial.

LA	No of cases per year 2014/15	FTE	Caseload/Officer ratio
Similar sized Unitary Authority	700	1x 0.2 Principal Enforcement Officers 2x FTE S01/2 Senior Investigation Officers 1x FTE Scale 6 Enforcement Assistant Total investigative resource – 3.2 FTE	220 cases to 1 FTE (they have stated they are struggling with a dramatically reduced workforce)
Neighbouring Authority	450	Total investigative resource – 3.70 FTE includes administration 1.8FTE Enf; 1FTE Senior Planner; 1.9 FTE handling Enf & Appeals	121 cases to 1 FTE
Only deal with very urgent S215 on a case by case basis			
Neighbouring Authority	450	Total investigative resource - 4 FTE , expecting more resource this year	113 cases to 1 FTE
Similar sized Unitary Authority	400 Enforcement, 300 compliance	4.43 FTE including dedicated compliance officer Total investigative resource for enforcement only – 3.43 FTE	117 cases to 1 FTE Including compliance – 158 to 1 FTE
Similar sized Unitary Authority	350	Total investigative resource 2 FTE	175 cases to 1 FTE
Neighbouring Authority	466	Total investigative resource 2 FTE	233 cases to 1 FTE
CBC	557	1 x 0.57 FTE Enforcement and Appeals Team Leader 3 x FTE Enforcement Officers	110 cases to 1 FTE

		<p>2 x 0.5 FTE Enforcement Officers</p> <p>1 x FTE Enforcement Officer shared between M&W and Enforcement Team</p> <p>1 x 0.818 FTE Technical Admin</p> <p>Total investigative resource – 5.07 FTE (minus admin and 1 FTE halved to include M&W)</p>	
<p>Large Unitary Authority (selected for benchmarking due to good practice elements of their Plan and procedures)</p>	<p>800-900 per year</p>	<p>6.5FTE including 2 dedicated compliance monitoring posts funded from DM fee and CIL levy overheads</p>	<p>153 per FTE based on 800 per year + 200 conditions monitoring</p>



BRISTOL CITY COUNCIL

Planning Transport & Sustainable Development

THE COUNCIL'S APPROACH TO PLANNING ENFORCEMENT

June 2008

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Appendices:

- 1) Flow Chart
- 2) Principal relevant enforcement laws and Government advice
- 3) Powers available to the council
- 4) Useful Contacts

1. Introduction

- 1.1 Planning enforcement has a key role in achieving the high standards of development being sought, and the purpose of this document is to set out Bristol City Council's approach to handling planning related enforcement matters. It will be of interest to anyone who thinks the planning rules may have been broken in their neighbourhood (often referred to as a 'breach of planning control'). For example, if you think that:
- building work is taking place without approval
 - a building is higher or in some way different from the approved scheme
 - the use of some land or a building has changed without planning permission
 - conditions of a planning permission are not being met
 - works to a listed building are being done without approval
 - a piece of land or building has become an unacceptable eyesore
 - protected trees, or those in Conservation Areas, are being felled/pruned without approval
- ...then this policy describes how the city council will respond to such situations.
- 1.2 Effectively guiding and controlling the pattern of development and change across Bristol, in accordance with both the Corporate Plan and Community Plan objectives, as well as approved planning policies is a key regulatory responsibility of the City Council. It takes this role very seriously.
- 1.3 The Development Control service is at the heart of achieving this, and it is crucial that developments are not only authorised, but are also carried out in accordance with approved plans.
- 1.4 The council has adopted¹ the government's Enforcement Concordat², and this policy is written to reflect the principles set out in the Concordat. These principles are:
- (i) setting out clear **standards on the level of service** the public can expect
 - (ii) being **open** about the way we will operate including **using plain language** for all communications
 - (iii) being **helpful** and actively working with citizens and businesses to **advise on and assist with compliance**
 - (iv) providing a well publicised **complaints procedure** for complaints about the service
 - (v) being **proportionate when considering any action** and taking into account the circumstances of the case when considering formal action
 - (vi) carrying out the enforcement duties in a **consistent and equitable manner**.

¹ Adopted by Cabinet 9 March 2001

² March 1998

1.5 To meet the principles of the Concordat, the Planning Enforcement team will :

- **set out priorities on how we will respond to breaches of planning control**
- ensure that **early decisions** are taken on the intended course of action
- **target resources** to those activities that cause the most serious problems
- resort to **robust formal enforcement** action where there is obvious harm or nuisance and where persuasion and negotiation have failed
- keep the **public informed** of progress with the investigation
- be **consistent** in responding to breaches of planning control.

2. Bristol City Council's general approach to Planning Enforcement

2.1 One of the council's key corporate aims is to provide and safeguard an attractive built and natural environment. Planning enforcement, in association with other council enforcement functions³, has a key role to play in achieving this aim.

2.2 **Bristol City Council takes breaches of planning control very seriously, particularly if it is either done intentionally, or results in significant harm. Although it will try to negotiate solutions where this is appropriate and possible, it will use all the powers available to take formal action where that is necessary.**

2.3 The Planning Enforcement team, within the Development Control service, will investigate possible breaches and take the appropriate form of action. The aim is to provide a service that is:

- Reactive to complaints made by citizens, and
- Proactive, by checking that development has taken place in accordance with approved plans and to ensure that planning conditions are being complied with.

2.4 Where appropriate, the Planning Enforcement team will liaise and work with other enforcement functions of the city council, such as Building Control and Pollution Control, and look to take a joint approach to cases.

3. What is a breach of Planning Control?

3.1 For a breach of planning control to have occurred, it must first be established that development requiring planning permission has taken place (see Appendix 2). 'Development' is a legal term and generally means building works and some changes of use.

- (i) Building works will include the erection of a building, excavations, alterations to buildings, larger fences, and so on, although often small-scale extensions to houses will not need any permission.

³ See Appendix 4 'Useful contacts'

(ii) Changes of use include a change from a shop to an office or a house to flats and so on. Some such changes of use can take place without planning permission being needed, e.g. a change from a clothes shop to a hairdressers, or a change from a doctor's surgery to a day nursery. The legal framework for this is set out in the government's Use Classes Order 2005.

3.2 The number of potential enforcement cases is extensive. There has been a year-on-year increase in the number of complaints received from 485 cases in 1998 to 813 cases in 2006. This increase in demand has made it even more important that cases are carefully prioritised.

3.3 The enforcement process is closely regulated by legal procedures, planning legislation and guidance from the government's Department of Communities and Local Government (DC&LG) (see Appendices 1 and 2). This provides the framework within which the council's Planning Policies and its enforcement priorities are applied.

4. **Service Commitments**⁴

4.1 The Enforcement team will investigate all written (including email) and telephone complaints⁵ relating to unauthorised development and changes of uses, and non-compliance with planning consents and conditions.

4.2 A certain amount of information is needed (eg: location, nature of activity and its harm) in order that the complaint can be registered. A set of registration criteria and guidance is available; this is so we can quickly check whether there is a breach of planning control⁶. Once a complaint has been registered, progress in addressing it will enable it to be monitored by the complainant on the city council's website (www.bristol.gov.uk)

4.3 Complaints can be made in person at Brunel House, OR by phone (see Useful Numbers in Appendix 4) OR by letter OR via the Internet.

4.4 To make the most effective use of resources, all incoming enforcement cases are prioritised when registered, based on information provided, assessment of any planning history and early site visits for deemed Emergency and High Priority cases. This will determine mainly the speed at which the cases are investigated and actioned, and will be affected mainly by the assessment of the type and extent of the harm caused. There are three enforcement priorities:

(a) Emergency – ie: where irreversible harm is likely to be caused if the council do not act immediately. For example:

- Unauthorised works to listed buildings;
- Unauthorised felling/pruning of protected trees.

⁴ See flow chart at Appendix 1

⁵ We will not normally investigate anonymous complaints unless there are specific reasons why anonymity is needed

⁶ We have available a 'Complaint form', and if this is completed it should ensure that the complaint can be registered – available on line at www.bristol.gov.uk

(b) High Priority – ie: where there is significant public concern or where there is (or is the potential for) significant harm to be caused to residential amenity in the surrounding area. For example:

- Breaches of planning conditions specifically identified to meet expressed public concerns, such as hours of operation;
- unauthorised uses/activities which are causing significant harm;
- illegal advertisements, particularly larger scale advertising on hoardings.

(c) Lower Priority – ie: smaller scale infringements which do not result in significant immediate or irreversible harm. For example:

- unauthorised building of walls/fences;
- unauthorised erection of satellite dishes

4.5 Our service targets in responding to complaints about potential breaches of planning control are:

Action	Priority		
	Emergency	High	Lower
Register and allocate to case officer	Immediate background/history check	Within 2 working days	Within 3 working days
Site Visit	As soon as possible, and certainly within 24 hours	Within 2 working days	Within 15 working days
Contact complainant with case assessment and commence negotiations	As soon as possible, and certainly within 24 hours	Within 5 working days	Within 20 working days
Commence legal action or resolve	As soon as possible if irreversible harm is being done, and certainly within 10 working days	Within 10 weeks	Within 20 weeks

4.6 We will respect the confidentiality of anyone who complains, but details of the complaint itself will be publicly available via the council's website.

4.7 We will carry out our duties in a fair, equitable and consistent manner, and many cases will be able to be resolved by negotiation. This will give the person complained against the opportunity to change or stop what they are doing. This might result in the use or development being modified to remove any harm, or the use ending. It might result in a retrospective planning application being made to regularise the situation. If a retrospective planning application is received we will let anyone who has complained know immediately so as they can comment on the proposal. This will help inform the assessment of the application in the context of the Bristol Local Plan

policies. Complainants will be kept informed of any negotiations that are taking place.

- 4.8 If attempts to negotiate an acceptable solution fail (eg: the person responsible for the breach of control refuses to modify what they are doing, or simply does not respond to approaches to discuss the case), there is a presumption that formal legal action will be taken as a means to resolve the complaint. Such decisions will be made by either officers using delegated powers, or by the appropriate Development Control Committee and will have regard to national legislation and guidance (see Appendix 2).
- 4.9 We will advise both the complainants and the person who has broken the planning rules of what action the Authority has decided to take, and the reasons for the action. We will also indicate the priority given to individual cases wherever possible and reasons will be given when further action is not pursued.
- 4.10 Every effort will be made to deal with all complaints as quickly as possible, and the Enforcement team will work positively towards achieving an acceptable solution to the problems. The Enforcement team will work to the priorities and timescales described in para 4.5. However, timescales can be affected by the following:
- (i) Some stages of the process must adhere to statutory and procedural timescales, including:
 - statutory legal timescales for the return of legal questionnaires;
 - minimum periods to comply with some types of legal notices;
 - Development Control Committee deadlines
 - (ii) The process for the formal consideration of any retrospective planning application and any appeal resulting from a planning refusal, will often delay the enforcement process.

5. Conclusion

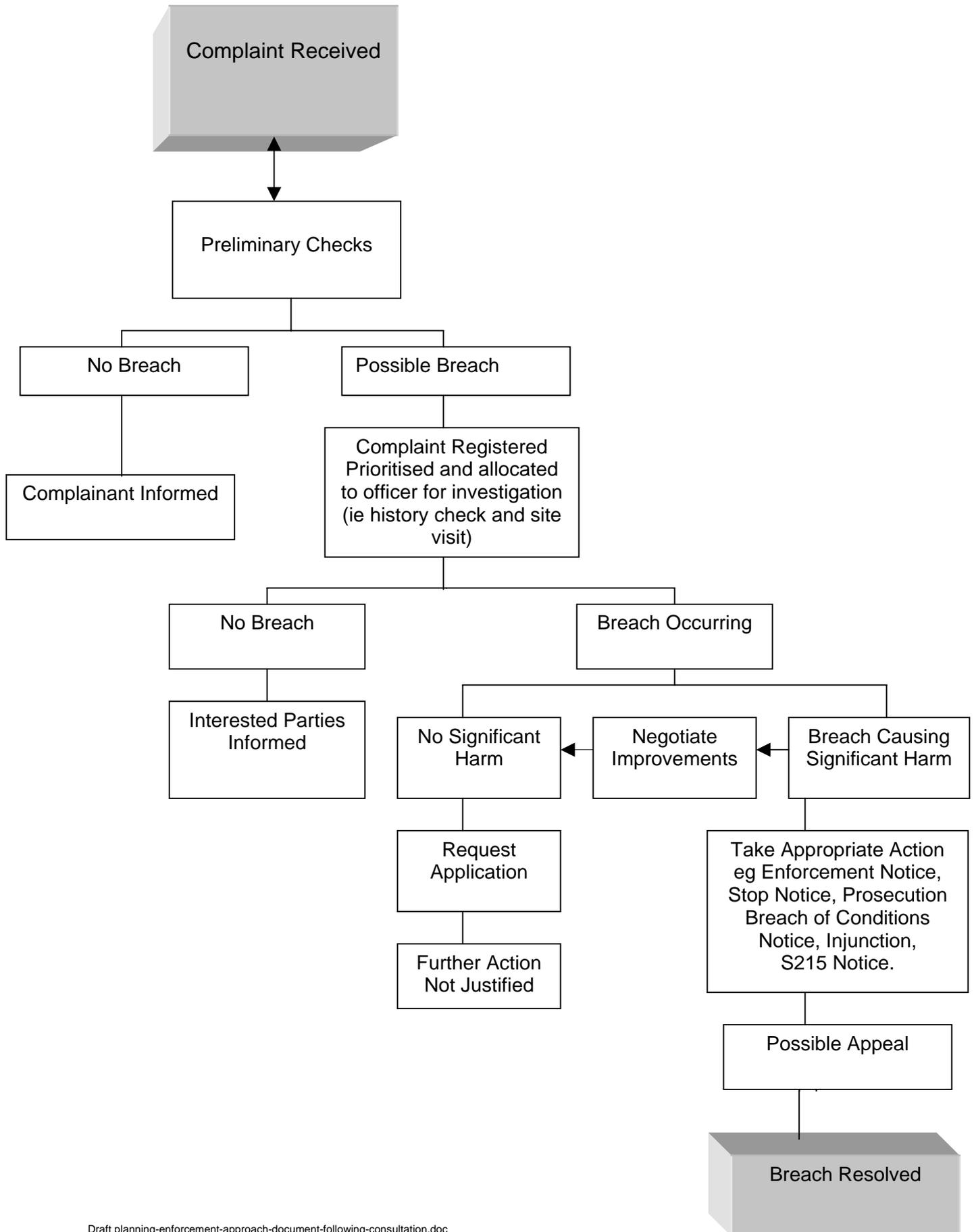
- 5.1 This document provides the framework for delivering the Planning Enforcement Service within the available resources. Additional funding has been made available for the appointment of two monitoring officers. The purpose of these two new posts is to promote a more proactive approach to planning enforcement and in particular to monitor planning permissions to ensure they are implemented in accordance with approved plans and conditions.
- 5.2 The city council will continue to seek to improve its Planning Enforcement service by regularly monitoring, reviewing and updating this Policy and Procedures document as a matter of good practice, and consult with stakeholders to ensure “Best Value” in the delivery of the service.
- 5.3 An annual performance report will be prepared. This will review service standards and performance in the context of available resources, workloads and outcomes.

Note: Complaints about the service. *If you are unhappy about the advice given or action taken or the level of service you have received from the Planning Service in relation to how it carries out its enforcement functions you can make a complaint using the city council's Fair Comment – Complaints Procedure. Details are available on line at www.bristol.gov.uk/faircomment or from all council offices.*

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APPENDIX 1

PLANNING ENFORCEMENT POLICY AND PROCEDURES



APPENDIX 2

The Law

The enforcement of planning law is a particularly complex aspect of planning activity. This is because the government has tried to strike a balance between the rights of individuals to use or alter their property in the way they wish, and the need to safeguard the character and quality of neighbourhoods and to uphold the planning policies for the local area.

In general, the system tends to give the benefit of the doubt to anyone undertaking the unauthorised development, and councils are expected to give those responsible for undertaking unauthorised development the chance to put matters right before serving a formal notice.

If the council's action are considered too harsh or hasty or legally incorrect, it can be ordered to pay costs or have its decisions overturned by the Planning Inspectorate or the courts. However, the Local Government Ombudsman has held, in a number of investigated cases, that there is maladministration if a local authority fails to take effective enforcement action which was plainly necessary. Such a failing can lead to a compensatory payment to the complainant.

The council's power to take enforcement action comes from laws passed by Parliament, mainly by the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991. These laws give council's power to take action against those responsible for breaches of planning control, such as the erection of buildings or changes of use without the necessary planning permission.

Not all development requires planning permission. The main source of guidance on what requires permission include:

- The Town & Country Planning General Permitted Development Order 1995;
- The Town & Country Planning Use Classes Order 1987;
- The Town & Country Planning Control of Advertisement Regulations 1992.

These documents, which are published by the government, contain schedules which list instances where consent is not required. For example, certain structures do not need permission because of their size, height, volume, location, etc. This is called 'permitted development' and specific guidelines are given in the General Permitted Development Order (the GPDO).

The Use Classes Order places most types of use into classes (eg retail, business, etc.) and, in general, permission is required to change from one class to another.

In considering whether it is appropriate to take action the Authority will be guided primarily by the following⁷:

⁷ All of these documents are available to inspect in Planning Reception at Brunel House or on the Internet.

- (a) The Town and Country Planning Act 1990 (T&CPA).
- (b) The Town and Country Planning (General Permitted Development Order 1995 (GPDO)
- (c) Planning Policy Guidance Note 18 (Enforcing Planning Control - Dec 1991 – see below)
- (d) Planning Policy Guidance Note 19 (Outdoor Advertising)
- (e) DOE Circular 10/97 Enforcing Planning Control - July 1997
- (f) Enforcing Planning Control Good Practice Guide for Local Authorities
- (g) Enforcement Concordat Cabinet Office - March 1998
- (h) Best Practice Guide on the use of Section 215 – Jan 2005
- (i) The Development Plan – Adopted Bristol Local Plan - Dec 1997

Planning Policy Guidance note (PPG 18) para 5 says -

“The General Approach to Enforcement

Nothing in this Note should be taken as condoning a wilful breach of planning law. LPAs have a general discretion to take enforcement action, when they regard it as expedient. They should be guided by the following considerations:-

- (1) *Parliament has given LPAs the primary responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative area (the private citizen cannot initiate planning enforcement action);*
- (2) *the Commissioner for Local Administration (the local ombudsman) has held, in a number of investigated cases, that there is "maladministration" if the authority fail to take effective enforcement action which was plainly necessary and has occasionally recommended a compensatory payment to the complainant for the consequent injustice;*
- (3) *in considering any enforcement action, the decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest;*
- (4) *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); and*
- (5) *where the LPA'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 to make the development acceptable on planning grounds, or to compel it to stop (LPAs should bear in mind the statutory time limits for taking enforcement action).”*

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Powers Available to the Local Planning Authority

Where negotiations fail we may decide to instigate formal legal proceedings. This could result in one or more of the actions set out below being pursued.

(i) Planning Contravention Notice (PCN)

The main purpose of a PCN is to gather initial information so that the Authority can establish whether there is a prima facie case for taking Enforcement Action.

It is an offence if the recipient of the notice fails to provide the required information. If convicted of such an offence the offender would be liable on conviction to a fine currently not exceeding £1,000.

(ii) Breach of Condition Notice (BCN)

This type of notice can only be used where planning consent has been granted subject to conditions.

The Authority can issue a BCN to ensure full or part compliance with planning conditions. As with the Enforcement Notice a BCN would specify the breach and steps required to secure compliance with the notice. Unlike the Enforcement Notice a BCN must allow a minimum of 28 days in which to comply with the requirements.

There are no rights of appeal against a BCN. If any person is found to be in breach of a valid BCN he or she shall be guilty of an offence with a maximum fine currently not exceeding £1,000 on conviction.

(iii) Enforcement Notice

This is the most common form of notice used to deal with unauthorised development, operations and/or uses. Before such action is embarked upon the Authority must be satisfied that it is appropriate to issue the notice having regard to the nature of the unauthorised development and in the light of Government guidance.

An Enforcement Notice will specify the alleged breach, the steps that must be taken to remedy the breach, and a time period in which to comply.

The recipient of the notice has a right of appeal to the Secretary of State. If any person is subsequently found to be in breach of an Enforcement Notice the Authority will consider whether to prosecute. If found guilty in any court hearing that person would be liable on conviction in the Magistrates Courts to a maximum fine of £20,000.

(iv) Stop Notice

The Authority can, when appropriate to do so, serve a Stop Notice requiring activities to cease immediately. Such a notice can only follow the service of an Enforcement Notice. There are limitations on the service of this notice and additionally compensation may be payable by the Authority in some circumstances if the recipient makes a successful challenge. It is used very selectively and it is not necessarily an instant solution.

(v) Injunction

Where the Authority considers a breach of planning control to be a serious and immediate risk to health and safety, or necessary in terms of expediency, it may apply to the County or High Court for an Injunction.

This can be extremely expensive, but can be effective in appropriate circumstances.

(vi) Temporary Stop Notices

Where the local planning authority consider that there has been a breach of planning control and it is necessary in order to safeguard the amenity of the area that the activity that amounts to the breach should stop immediately, Section 171E of the Town and Country Planning Act 1990 enables the local planning authority to issue a temporary stop notice. This differs from the normal stop notice powers because the temporary stop notice does not have to wait for an enforcement notice to be issued. In addition, the effect of the temporary stop notice will be immediate, it will not have to wait three days before the temporary stop notice takes effect or give reasons why the temporary stop notice will take effect immediately. For more information please refer to the ODPM Circular 02/2005.

(vii) Section 215 Notice

The condition of certain buildings or land often causes serious harm to the visual amenity of an area. Should the Local Planning Authority consider it appropriate to do so they may serve on the owner and occupier a Notice under Section 215 of the Town and Country Planning Act, 1990.

Such a notice would require steps for remedying the condition of the land or buildings and specify a period of time for complying but in any event not less than 28 days. This Notice can be appealed via a magistrates' hearing.

If any person is subsequently found guilty of an offence of not complying with the requirements of a 215 Notice they shall be liable on conviction to a fine currently not exceeding £1,000.

(viii) High Hedges

If a complaint has been properly made and we decide that action should be taken to resolve the complaint, we may issue a formal notice to the person responsible for the hedge, setting out what must be done and by when. This is known as a remedial notice.

This can include long-term maintenance of the hedge at a lower height. It cannot involve reducing the height of the hedge below 2 metres, or its removal. Although we cannot require such action, the hedge owner is free to go further than the remedial notice requires.

The remedial notice becomes a charge on the property and legal obligations under such a notice pass to any subsequent owners

(ix) Signs and Advertisements

Where an advertisement is not lawfully displayed and causes harm to the amenity or public safety, and it is considered that express consent would not be granted, the owner/occupier shall be requested to remove the offending

sign. If the sign is not removed by agreement the Authority does have the power to Prosecute (see (x) below).

If a person is found guilty of an offence under The Control of Advertisement Regulations 2007 he or she could be liable to a fine not exceeding £1,000. The Council also has the power to serve a Notice requiring the discontinuance of a lawfully displayed advertisement if it is satisfied that it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public. Recipients of a Discontinuance Notice do have a right of appeal.

(x) Prosecution

The Council will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the following Notices where the date for compliance has passed and the requirements have not been complied with.

- (a) Enforcement Notice
- (b) Listed Building Enforcement Notice
- (c) Conservation Area Enforcement Notice
- (d) Breach of Condition Notice
- (e) Section 215 Notice
- (f) Stop Notice

The Council will also consider commencing a prosecution in the Courts where:

- unauthorised works have been carried out to trees subject to a Tree Preservation Order, or in a designated Conservation Area
- an advertisement is being displayed without the necessary consent and the Council's request to remove it within a specified timescale has been declined or ignored
- unauthorised works have been carried out to a Listed Building
- unauthorised demolition has been carried out in a Conservation Area
- the recipient of a Planning Contravention Notice has failed to provide a response within the prescribed time period or has supplied false or misleading information.

Before commencing any legal proceedings the Council will be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

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Contact Details

Bristol City Council website: www.bristol.gov.uk

- **Information about Planning Enforcement, including an on-line complaints form available via Environment and Planning homepage.**
- **Planning Enforcement Team**
 - Phone Number: - 0117 922 3863
 - Email: - planning.enforcement@bristol.gov.uk

Other Useful Contacts

- **Building Control – Including dangerous structures**
 - Phone Number: - 0117 922 3080
 - Email: - building.control@bristol.gov.uk
 - **Waste Services and Street Scene Group – Including litter, graffiti and flytipping**
 - Phone Number - 0117 922 3838
 - Complaints form available via Environment and Planning homepage
 - **Licensing – Including taxis, late night food and drink establishments**
 - Phone Number: - 0117 914 2550
 - Email: - licensing@bristol.gov.uk
 - **Pollution Control – Including noise, air and land pollution**
 - Phone Number - 0117 922 3810
 - Email: - pollution.control@bristol.gov.uk
- Out of hours Service can be contacted via the Emergency Control Centre**
Phone Number: - 0117 922 2050
- **Parking Services**
 - Phone Number: - 0117 922 2198
 - Email: - parking.services@bristol.gov.uk

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This leaflet can be obtained in alternative formats, e.g. in braille, large print, on audio tape, or e-mail by contacting the Council on telephone:

01727 819344 or 819345



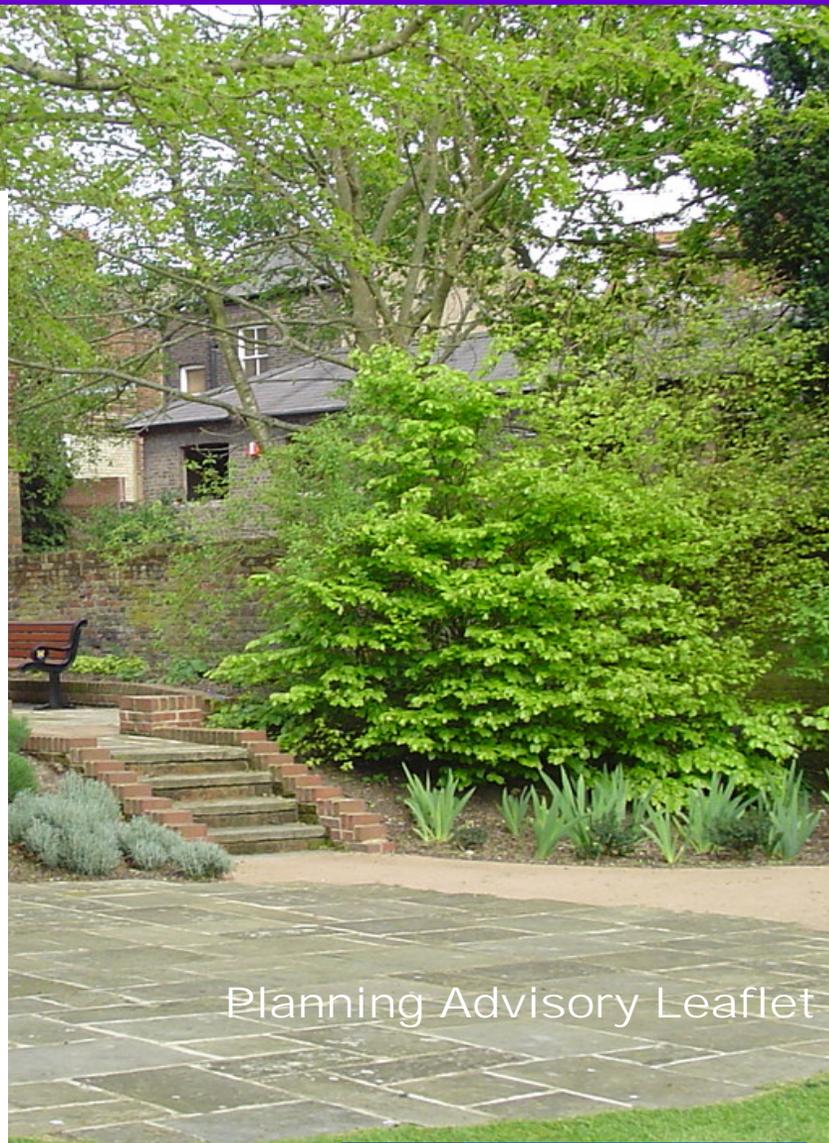
The District Council Offices textphone number is **01727 819570**. The service is for customers with a hearing impairment.

এই লিফলেটে যে তথ্য দেওয়া হয়েছে যদি আপনি আরও বুঝার সাহায্য চান তবে কোন্ করনন Telephone: 01727 866100

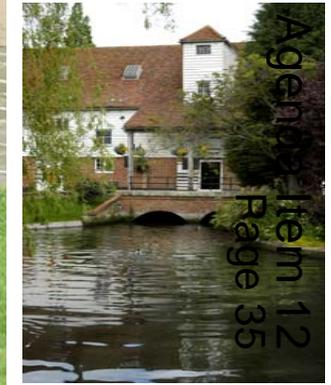
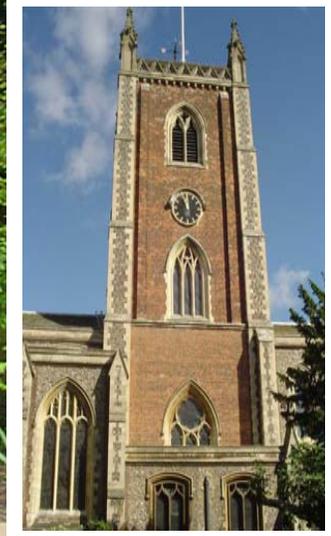
امراؤیکو یہ دعوتی ہے کہ اس سب سے بہتر سہولت سے قریب ہرگز ان کے بارے میں راجہ کریں Telephone: 01727 866100

St Albans City and District Council
St Peter's Street
St Albans AL1 3JE
Telephone: 01727 866100

www.stalbans.gov.uk



Planning Advisory Leaflet



Agency Item 12
Page 35

PLANNING ENFORCEMENT

Introduction: Why enforce?

Planning regulations and policies are put in place to help protect and enhance the amenity and environment in our towns, cities and countryside. In an ideal world, development would be carried out properly and in compliance with regulations and policies. No planning enforcement would then be required. Unfortunately this is not the case and breaches do occur. A breach could be the result of a deliberate disregard of the planning regulations or simply a lack of knowledge of the relevant provisions. In these situations, planning enforcement officers are needed to ensure the amenity and environment of St Albans and District is protected and maintained.

Where development has taken place without the required planning permission or where it fails to comply with the requirements of a permission, the Council can take enforcement action and can, as a last resort, prosecute any person undertaking work that is unauthorised. This leaflet outlines the planning enforcement process at St Albans District Council.

*To find out whether any works you propose require planning permission please visit the Customer Service Centre at the Council offices or see the leaflet "A Householder's Guide to Permitted Development Rights" available on the Council website. Planning or enforcement officers will also be able to provide you with guidance but you should be aware that this is an informal view only and not binding on the officer or the Council. **For a formal decision, you will need to apply for a Certificate of Lawfulness.***

What does enforcement involve?

The Planning Enforcement section at St Albans City and District Council investigates around 1,500 complaints/enquiries a year about alleged breaches of planning control received from the general public, District Councillors, Town and Parish Councillors and via referrals from other departments within the Council.

The Council's enforcement officers are involved in the following:

- investigating alleged breaches of planning control. This could include: general works undertaken in respect to buildings and properties, unauthorised fly-posting and advertisement displays, works undertaken to listed buildings, works undertaken in Article 4 Areas and conservation areas;
- checking compliance with conditions on planning consents, and the discharge of planning conditions;
- checking compliance with Section 106 legal agreements;
- assisting in the processing of certificates of lawful use or development;
- providing reports to planning committees on breaches of planning control;
- preparing evidence for enforcement and/or prosecution proceedings;
- responding to telephone requests for planning information and advice;
- posting of site notices for planning and other applications;
- maintaining the Register of Telecommunication Apparatus;
- processing applications for Goods Vehicle Operators Licences;
- investigating retrospective applications that have been refused planning permission;
- liaising with all departments within the Council.

What should you do if you suspect a breach of planning control

If you suspect a breach of planning control, you should contact the Planning Enforcement section as soon as possible. You may submit your complaint or enquiry in writing, by letter or email (details at the end of this leaflet), or by calling 01727 819346. As enforcement officers are often out investigating complaints, there are occasions when you may need to leave details on an answering machine service.

When reporting any alleged breach please provide as much information as possible. Providing accurate details of the postal address of the premises or site can help to speed up the initial investigation.

The Council will ask any person reporting a breach of planning control or making an enquiry to provide their contact details. This is to allow the enforcement officers to update the person on the progress of the case and also to provide a contact should any further information be required. All complaints and enquires are dealt with under strict confidentiality and every effort is made to safeguard this.

You are not, however, required to supply your contact details if you do not wish to do so. An anonymous complaint or enquiry will be considered in the same manner as any other complaint or enquiry.

Despite measures to improve the manner in which the service is provided, it is unlikely that it will be possible to meet everyone's expectations. There will always be a need to prioritise the use of available resources to reflect the nature of the alleged breach, ongoing other commitments and the commitment to securing results. The Council investigates all reported breaches of planning control, but will give special priority to certain referrals such as breaches that are causing serious immediate harm or require emergency action, for example the demolition of a Listed Building.

Many of the 1,500 complaints investigated each year are found to be works carried out under what is known as 'permitted development' rights. For example, you may be concerned that your neighbours have erected a large structure in their garden without planning permission. However, they may be fully entitled to do this lawfully under permitted development rights. Enforcement officers will, of course, investigate every complaint made, but you might wish to view the Council's leaflet, *A Householder's Guide to Permitted Development Rights*, to see if this is the case before you contact the enforcement section.

What happens to your enquiry or complaint?

Once a complaint or enquiry has been received by the Planning Enforcement section, it will be allocated to an officer, who will aim to investigate the complaint or enquiry within five working days and advise you of his/her initial findings. Should a breach of planning control be identified, enforcement action may then be considered.

How is enforcement undertaken?

Many breaches of planning control reported to the Council are very minor, and formal action cannot always be justified. The Local Planning Authority must consider whether the breach of planning control would unacceptably affect the public amenity of the existing use of the land and buildings. Enforcement should always be commensurate with the breach of planning control to which it relates. Enforcement powers are discretionary and even when it is technically possible to take enforcement action, in law the District Council is first required to determine whether such formal action would be 'expedient'. In each case, all the relevant planning circumstances must first be considered and any of the following may be appropriate.

1. **Ongoing review:** Take no action, but monitor the position in case circumstances change. This might involve minor breaches of planning control causing no significant harm.
2. **Allow time to remedy:** Time may be given to remedy the breach of planning control or to consider whether any unauthorised development should be retained, for example by requesting the submission of a planning application. This may be considered appropriate in circumstances where the harm is easily repairable and is not so serious as to warrant immediate action.
3. **Planning Contravention Notice:** Service of this type of Notice is a primary method of gaining information about an alleged breach of planning control. It gives clear warning that further action is being considered and can in itself bring about a satisfactory conclusion.
4. **Enforcement Notice:** Service of such a Notice will be the normal means of remedying unacceptable development where the Council's investigations have not met with a satisfactory response. The Notice will specify the actions that need to be undertaken to remedy any unauthorised development. There is a right of appeal to the Secretary of State against the Notice, which can be quashed or amended on appeal.

5. The Council may choose to '**under-enforce**' to remedy a specific problem. In such circumstances the remaining building or use will be deemed to have planning permission when an Enforcement Notice is complied with. The Council may choose not to issue proceedings against certain aspects contained in the Enforcement Notice. Under-enforcement will only be used when the planning merits are clear, unarguable and third parties are not adversely affected.
6. **Discontinuance Notice:** Service of such a notice allows the Council to take action against any advertisement, or the use of any advertisement site, which might normally have the benefit of deemed consent. Discontinuance action can only be taken if the Council is satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public.
7. **Breach of Condition Notice:** A Breach of Condition Notice can be used in addition to, or as an alternative to, an Enforcement Notice where an activity is in breach of a condition attached to a planning permission. There is no right of appeal against this Notice and under-enforcement is not an option.
8. **Stop Notice:** The Stop Notice procedure allows the Local Planning Authority to impose a ban almost immediately on activities that are being carried out in breach of planning control. A Stop Notice can only be served if there has been a prior service of an Enforcement Notice, and it prohibits the use or operation even if an appeal has been made against the Enforcement Notice. Government advice is that a Stop Notice should only prohibit what is essential to safeguard amenities or public safety in the neighbourhood, or to prevent serious or irreversible harm to the environment in the surrounding area.
9. **Temporary Stop Notice:** A Temporary Stop Notice (introduced by the Planning and Compulsory Purchase Act 2004) may be issued where it appears to the Local Planning Authority that there is a serious breach of planning control and to allow time to investigate the breach fully or to issue an Enforcement Notice.

10. **Court Injunction:** An injunction can be sought by the Local Planning Authority from the County Court or High Court in the most serious cases where irreparable harm is being done, where a flagrant breach is resulting in clear financial gain to the individual or where all other actions have failed. Significant costs are involved in such actions and they can only be justified in extreme cases. Defendants risk imprisonment if they do not comply with a court order.
11. **Default Powers:** The Council has the right to enter land and carry out works that are required by an Enforcement Notice. Remedial action may be less problematic than prosecution and capable of resolving any breach. A Local Planning Authority may recover costs from the owner, but the cost-effectiveness of such an action needs to be considered.

Other than 1) and 2) listed above, the relevant Planning Committee will need to determine whether it is expedient to take further enforcement action. However, the Head of Legal and Democratic Services has delegated authority to undertake prosecution proceedings for advertisement breaches or to issue Breach of Condition Notices, while the Head of Planning and Building Control has delegated authority to issue Planning Contravention Notices.

What planning enforcement does not cover

The Planning Enforcement section only investigates planning-related complaints and enquiries. Other departments of the Council undertake enforcement, such as Environmental Health (litter, noise nuisance, refuse collection), Licensing (pubs, restaurants, taxis) and Community Safety (anti-social behaviour). Please see the Council's leaflet, *A-Z of Council Services*, to find out the appropriate department for your complaint. The information is also available on the Council's website: www.stalbans.gov.uk.

Please note: complaints and enquires relating to roads, highways and pavements and verges should be directed to Hertfordshire Highways. Hertfordshire Highways can be contacted on 01438 737320 or www.hertsdirect.org/highwayfaults.

The legal and advisory framework

Powers to enforce planning control are given to Local Planning Authorities by the Planning and Compensation Act 1991, which amended the Town and Country Planning Act 1990. This legislation gives the local planning authorities various enforcement powers, most of which are discussed in this leaflet. Guidance on enforcement procedures is provided by the Government in the form of the Concordat on Good Enforcement issued by the Cabinet Office in 1998.

The Council has adopted the principles of the Enforcement Concordat, which is a voluntary, non-statutory code of practice that sets out best practice for enforcers and is based on the principles of good enforcement. This has been incorporated into the St Albans City and District Council Statement of Policy for the Planning Enforcement Service, which Cabinet adopted on 1 September 2004.

It is important to note that Parliament has decided that in law, the carrying out of unauthorised works or changes of use should not initially constitute a criminal offence, except for unauthorised works to Listed Buildings and the display of certain advertisements. A criminal offence only arises in the majority of cases when an Enforcement Notice has been issued and the recipient has failed to comply with its requirements.

The principles of good enforcement

As mentioned above, St Albans City and District Council has adopted the Concordat on Good Enforcement. Based on the Concordat, the Council has produced its own set of principles for good enforcement. These are set out below:

Standards: In consultation with business and other relevant interested parties, clear standards are to be drawn up setting out the level of service and performance the public and the business community can expect to receive. The information will be made publicly available.

Openness: Information and advice will be provided in plain language. Clear explanations will be given on procedures and

actions. Any issues or problems will be discussed with anyone experiencing difficulties.

Helpfulness: A courteous and efficient service will be provided and matters will be dealt with as quickly as possible, in accordance with agreed priorities and targets.

Proportionality: Any action taken will be proportional to the harm that is involved. Account will be taken of all relevant circumstances, and consideration given to what actions are necessary and expedient.

Consistency: The Planning Enforcement service will be carried out in a fair, equitable and consistent manner in accordance with the practices and procedures discussed throughout this leaflet. Consistency will also be promoted through sharing of knowledge, experience and good practice with other neighbouring Local Planning Authorities through various meetings, committees and training opportunities.

How to contact the Planning Enforcement service

This advisory leaflet is intended to be a helpful and useful source of information and not binding on any party. The Council offers no guarantee or warranties concerning the accuracy of the information supplied.

Planning Enforcement
St Albans City and District Council
St Peters Street
St Albans, Hertfordshire AL1 3JE
Telephone: 01727 819346
Fax: 01727 845658
Emails: planningenforcement@stalbands.gov.uk
planning.enforcement@stalbands.gov.uk
Website: www.stalbands.gov.uk

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