

Planning Enforcement Strategy

Enforcing planning control is vital to safeguard the quality of the environment in the Borough. This guide has been published to provide further information on the enforcement process and to give a clear statement of the Council's strategy and procedures for enforcing planning control in the Borough (outside the North York Moors National Park Authority). It also outlines what you can do if you are concerned that a development is proceeding without the necessary consent or is not in accordance with a consent already granted and sets out the level of service you can expect from us.

Our approach to enforcement

In assessing possible breaches of planning control, the Council has to exercise a careful balance between the rights of the developer, user or owner of the land or buildings and the wider public interest. It is important to note that the power to take formal enforcement action is discretionary and is to be used by the Council only when it is 'expedient' to do so. This means that the Council must make a judgment in each case as to whether the unauthorised development harms the amenities of nearby residents and/or the special qualities of the landscape and buildings in the vicinity to the extent that formal action should be taken. Government advice is that any action taken should be appropriate to the scale and impact of the unauthorised development. Enforcement action is only taken in the wider public interest. It is not a tool to resolve private disputes between neighbors or other individuals.

This guide lets you know:

- how to register an enforcement concern
- what you can expect from us if you report an alleged breach of planning control
- what we will require from you
- what you can expect if you are responsible for breaking planning regulations.

Our commitment to you is that we will:

- treat all complaints as confidential
- acknowledge your complaint within 3 working days
- prioritise your complaint depending on Category A, B, C or D (detailed below)
- inform you when and why a case is closed

What happens to your complaint

To deal with any enforcement complaint we may:

- check the planning register to make sure that planning permission has not been granted for the development and that it is not permitted development
- establish the facts. This may require a site visit, and discussions with the owner and/or complainant
- we may also serve a Planning Contravention Notice (PCN) which requires the developer to provide further information to the Authority

- try to get a full picture of the situation by investigating the planning history of the site, photographs and information from other agencies
- pass on any relevant information to other agencies such as the Highway Authority or Environment Agency who may have an interest in the case
- decide on an appropriate course of action and advise the complainant.

Priorities for investigation

Investigating complaints is often complex and time consuming. In order to make most effective use of staff resources, it is usually necessary to give priority to those cases where the greatest or irreversible harm is being caused. The following is a guide to how cases are prioritised.

Category A:

- Unauthorised demolition, substantial or irreversible alterations are being made to a Listed Building.
- Unauthorised works to protected trees or trees within a Conservation Area
- Unauthorised demolition within a Conservation Area causing irreparable harm
- Operations or uses that are causing serious and immediate harm or nuisance to the amenity of residents (that doesn't form a statutory nuisance better dealt with by non-planning means)

Category B:

- Breaches of planning control where building works are in progress, but not completed or substantially complete.
- Breaches which are seriously detrimental to highway safety or other give rise to danger to the public, that are not more appropriately dealt with by the relevant Highway Authority or other agency.
- Development involving harm to identified sites of nature conservation interest and protected species or habitats, in consultation with appropriate agencies.
- Development involving harm to archeological features, in consultation with appropriate agencies.
- Unauthorised* changes of use to create houses in multiple occupation and other development involving sub-standard accommodation (not dealt with under Environmental Health or Building Regulation legislation)

* Where these unauthorised works are not in progress or they have been completed, they will be dealt with in accordance with Category C, with particular emphasis on development in Conservation Area and the open countryside or that has the potential to cause significant harm to residential amenity. This does not however reduce the level of enforcement action that may be taken against the breach.

Category C:

- Breaches of occupancy conditions and unauthorised self-contained residential accommodation, including caravans.
- Unauthorised works to historic properties and features in Conservation Areas.

- Unauthorised Development which is complete, that has the potential to cause significant harm to residential amenity.
- Unauthorised Development or untidy land and property that has the potential to cause serious harm to the public realm or landscape character
- Development which occurred more than two years prior to the complaint being received.

Category D

All other breaches of planning control

What action can the council take?

It is a criminal offence to carry out unauthorised works to a Listed Building or to a tree protected by a Tree Preservation Order or to display an advertisement without the necessary consent. Prosecution will always be considered for any breach of this type and can ultimately lead to a conviction in the Criminal Courts.

It is not a criminal offence to carry out other works or changes without planning permission (unless a formal notice has been served). However any unauthorised work is carried out at the owner's risk, and if there is proven harm, enforcement action may be pursued to rectify the breach of control.

Type of action

There are several courses of action available to the authority where a clear breach of control is established:

1. Take no further action, for instance where the breach is minor in nature and does not harm the amenities of adjoining occupiers or the landscape or buildings in the Borough
2. Request a retrospective application to regularise the development where the breach could be made acceptable by amendment or the imposition of conditions (in accordance with Government guidance, planning applications will not be sought to regularise otherwise acceptable development, although it is open to the owner/operator to do this if they so desire)
3. Negotiate a solution to mitigate the impact of the development or secure its removal altogether
4. Formal action to stop and/or remove or alter the development, which involves serving a notice on the relevant parties. The notice specifies what action is required to correct the breach and by when. A register giving details of all Enforcement Notices served is available for inspection online.

It is not always possible to anticipate how a particular case will develop and the timescale for resolving a complaint can be difficult to predict. Factors that can delay progress include:

1. Collection of relevant and satisfactory evidence
2. Negotiation to resolve a complaint without using formal enforcement powers
3. The submission of a retrospective application, and lodging an appeal against refusal
4. An appeal against a formal notice.

How to make an enforcement complaint

If you are concerned that a development or activity is taking place without planning permission or does not comply with a consent that has already been granted, you can report this in writing, by email or by using our online investigation request form. Telephone complaints will only be accepted in respect of works to trees and demolition of/or works to historic buildings.

You should provide:

- clear details of what is causing you concern and the harm you feel is being caused
- details of the location and address of the land or property
- your name, address, telephone number and e-mail address in order that we can contact you regarding the investigation
- if known, details of the landowner/developer's name and address.

Anonymous complaints will be only be recorded on file and investigated where it appears that there could be significant harm.

Your details are confidential and will only ever be given out with your agreement. This is a requirement of the Local Government Act 1972 which protects informant's details.

Contact details:

Planning Services
Town Hall
St Nicholas Street
Scarborough
YO11 2HG

planning.services@scarborough.gov.uk

Tel: (01723) 232323