



Wyre Council Draft Planning Enforcement Policy

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What is planning enforcement?

Planning enforcement is the investigation of alleged breaches of planning control and, where a breach of planning control is identified, the aim is to resolve these using the most appropriate action. Wyre Borough Council is responsible for enforcing control for all planning matters other than matters relating to minerals or waste disposal which are the responsibility of Lancashire County Council.

The Enforcement Team investigate cases from the initial receipt of notification of the alleged breach of planning control through to the closure of the case, including the service of any formal notices, appeals, and court action.

What is a breach of planning control?

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

- The carrying out of development without the required planning permission (or other similar consenting regime); or,
- Failing to comply with any condition or limitation subject to which planning permission has been granted.

It is important to note that a breach of planning control occurring in either of the two main ways set out above does not constitute an offence in law. The development or use will be unauthorised and may be subject to enforcement action, but it would only constitute a criminal offence if a valid enforcement notice requiring action to remove or modify a development or to cease a particular use, is not complied with, within the time specified in the enforcement notice.

Breaches of planning control which do constitute a criminal offence, without a notice being served, are:

- Works to a listed building without first obtaining Listed Building Consent;
- Works to protected trees and protected hedgerows, without first obtaining consent;

- The display of advertisements without first obtaining Advertisement Consent; and,
- Non-compliance within a formal Enforcement Notice (or similar Notice) within the specified timescale.

Where a breach of planning control constitutes a criminal offence the council has the power to prosecute directly in the Magistrates Court. Any decision made by the council, on whether to commence proceedings, will have regard to the Code for Crown prosecutors. In the case of advertisements, the Council has powers, in some circumstances, to remove or obliterate them. In such cases, you will be advised of the necessary procedures and of your rights and obligations.

Breaches of planning control concerning minerals, waste developments or other “County Matters” will be referred to Lancashire County Council for their consideration.

What is not a breach of planning control?

Not all building/engineering work or changes of use require planning permission. Many are either considered not to be development at all or are defined as 'permitted development', meaning that planning permission does not have to be obtained to allow them to be carried out. Details of 'permitted development' are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Some other matters frequently occurring fall outside the remit of planning controls. The local planning authority cannot investigate the following:

- Land ownership disputes including boundary disputes, or damage caused to neighbouring property during construction work (**This is a civil matter, and we would advise that you seek your own legal advice**).
- Covenants imposed on property deeds (**This is a civil matter, and we would advise that you seek your own legal advice**).
- Dangerous structures (**This is a matter for the council's Building Control Team and, where there is imminent danger of collapse, the emergency services**).

- Unsafe construction practices (**This is a matter for the Health and Safety Executive**).
- The parking of vehicles on the public highway (**This is a matter for the highway authority, which is Lancashire County Council**).
- The obstruction of the public highway (**This is a matter for the Police**).
- The obstruction of a Public Right of Way (**This is a matter for Lancashire County Council's Footpaths Officer**).

Immunity

A breach of planning control becomes immune from enforcement action if no formal action has been taken within certain time limits. These limits are set out within Section 171B of the Town and Country Planning Act 1990. The time limits are as follows:

- Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of **ten years** beginning with the date on which the operations were substantially completed.
- Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of **ten years** beginning with the date of the breach.
- In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of **ten years** beginning with the date of the breach (i.e. changes of use of land or buildings and breaches of conditions).

If owners of land or property consider that a breach of planning control has become immune from enforcement action through the passage of time they may apply for a Certificate of Lawfulness. If granted, such a certificate provides legally binding documentation that establishes the lawfulness of the existing use or development.

Our approach to planning enforcement

Enforcement action taken by the local planning authority can be the subject of challenge, either on appeal or through the courts. For this reason, the local planning authority must be confident that the proposed enforcement action is necessary and reasonable to the alleged breach of planning control. In making this judgement, the local planning authority will consider whether it is expedient to pursue enforcement action.

Breaches of planning control can be deliberate, accidental, or based upon inaccurate advice. Neither the explanation of how the breach came to occur, nor the personal circumstances of the person responsible for the breach have any influence on the outcome of the local planning authority's approach to its' investigation.

In the first instance, the council will endeavour to resolve any breaches of planning control through discussion and negotiation. Remedying the breach, means that the person responsible for the breach of planning control has taken action to remove the breach, or has remedied or altered it to ensure that it no longer breaches planning control, or that it has been made acceptable in planning terms. Where enforcement action is necessary, that action will be applied taking into account the council's adopted planning policies, and in accordance with any relevant professional codes of conduct.

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. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it.

It is important to acknowledge that the use of planning enforcement powers is discretionary. In some instances, formal enforcement action may not be appropriate. When deciding whether or not to exercise their enforcement powers the local planning authority will consider the expediency of each case on its own

merits. Not all breaches will cause a harm to justify enforcement action with a main consideration being whether any action would be in the public interest. This means that a judgement has to be made in each case as to the seriousness of the breach and the level of any harm that it causes. It must consider whether the breach of planning control unacceptably affects public amenity or safety or the existing use of land or buildings merits protection in the public interest. Harm resulting from a breach may include an adverse effect on the appearance of the landscape, a noise nuisance, a danger to highway safety or an impact to neighbouring amenity. It cannot include, for example, loss of value to a neighbouring property, loss of an individual's view, interference with someone's private rights or matters relating to trade/business competition.

In deciding, in each case, what is the most appropriate way forward, the council will usually avoid taking formal enforcement action where:

- There is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- Development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- We consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

It cannot be assumed that retrospective planning permission will be granted.

When making decisions on planning applications the council must take into account the planning policies for the Borough and the policy guidance that is published from time to time by the Government. The same is true when deciding whether or not to pursue enforcement action. If a planning application for a retrospective development or activity is refused, then under planning law the applicant may have a right to appeal against the decision of the local planning authority. That appeal is heard by the Government's Planning Inspectorate.

If an appeal is made, an independent Inspector from the Government's Planning Inspectorate is appointed to look at both the council's and the appellant's cases. Appeals may take the form of Written Representations (an exchange of written

statements), a Hearing where members of the public may attend and contribute, or by a Public Inquiry where formal evidence is presented, and both sides usually have legal representation.

If the Planning Inspector upholds the local planning authority's decision, and dismisses the appeal, enforcement action can then continue. If the appeal is allowed, then the Inspector will explain the reasons for allowing the appeal and will also list any planning conditions that should accompany the grant of permission.

The subsequent decision of the Inspector is binding, although the appellant may make a further appeal to the High Court on a point of law, but not for the planning merits of the case to be re-examined.

What type of action could be taken?

There will be cases where a breach of planning control is unacceptable in planning terms and cannot possibly be remedied without formal enforcement action.

Formal enforcement action may take several forms. The decision to take any such action is taken by the Head of Planning and Building Control under delegated powers in consultation with the council's legal team. These powers are set out in the council's Constitution, details of which may be found on our web site (www.wyre.gov.uk).

To commence enforcement action, the local planning authority must establish which person(s) have an interest in the land or buildings that are the subject of the breach of planning control. The local planning authority must ensure that no other person has a land or property interest. It can do this via one of two methods:

A **Section 330 Requisition for Information (s330)** – which requires those with a land or property interest to complete the s330 Notice and identify their names, addresses and extent of their land/property interest. Failure to complete and

return the Section 330 within the time specified in the notice, is a prosecutable offence.

A **Planning Contravention Notice (PCN)** – a PCN can include additional questions to those posed by the s330 Notice and may be used (for example) to establish dates when an unauthorised activity commenced, or to identify the future intentions of the owner/occupier. However, a PCN can only be served if it appears that a breach of planning control has occurred. Failure to return the completed PCN, within the time specified in the notice, is a prosecutable offence.

Where negotiation has failed to remedy the breach of planning control, the Development Management Enforcement Team can consider the use of one (or more) of the following methods:

- An **Enforcement Warning Notice (EWN)** – this notice formalises the process for a local planning authority to invite a retrospective planning application. Where a local planning authority considers that unauthorised development has a reasonable prospect of being acceptable in planning terms, it can issue an EWN. The notice will set out the matters that appear to be a breach of planning control and state that, unless an application is made by a specified date, further enforcement action may be taken.

The issue of an Enforcement Warning Notice constitutes taking enforcement action for the purposes of section 171B of the Town and Country Planning Act 1990.

- An **Enforcement Notice (EN)** – this is a Notice which imposes a legal duty on those with an interest in the land/building to ensure that the breach of planning control defined within the EN ceases within a specific period. An EN sets out the breach of planning control, the steps that must be taken to remedy the breach, the planning reasons for taking the action and the time period for compliance. An EN does not have to require the whole of the breach to be removed or undone. The EN may specify 'under enforcement' – i.e. steps sufficient to make the development acceptable, e.g. restricting hours of use or requiring works such as noise insulation or

screening. The effect of 'under enforcing' is that planning permission would be granted for those aspects of the development not required to be removed by the EN. Recipients of the EN may appeal to the Planning Inspectorate, effectively suspending the provisions of the EN until the appeal is determined. ENs are entered onto the Land Charges Register and so they run with the land, thus remaining effective even after compliance has been achieved and/or any change in ownership.

- A **Breach of Condition Notice** (BCN) – this notice is used where a planning applicant has failed to comply with planning conditions attached to a planning permission. The BCN will identify the conditions that the applicant has breached and set a timescale for compliance – in full – with those conditions. There is no right of appeal against a BCN. BCNs are not required to be entered onto the Land Charges Register.
- A **Section 215 Notice** (s215) – a s215 Notice seeks to remedy untidy land or buildings. It relates to Section 215 of the Town and Country Planning Act 1990, it will specify the area of land/building that is untidy and identify the precise measures that are required to remedy the condition of the land/building. The council must demonstrate that the land or buildings are not just untidy, but that its condition adversely affects amenity because of its untidiness. A s215 Notice can be appealed by the recipient. The appeal is made to the Magistrates Court. If an appeal is made, the Notice will not come into effect until final determination or withdrawal of the appeal.

Failure to comply with Enforcement Notices, Breach of Condition Notices and Section 215 Notices can lead to summary prosecution in the Magistrates' Court. These are called non-immediate prosecution cases. If a person is found guilty, the Courts may impose an appropriate fine.

In addition to the sentencing power of the courts, the **Proceeds of Crime Act 2002** provides a legislative scheme intended to deny criminals the use of their assets, recover the proceeds of crime and disrupt and deter criminality. An application for confiscation may be made by the council after a conviction for certain offences, and these could include some planning related offences.

Accordingly, an assessment of any benefit from criminal conduct may be made by the council in appropriate cases, as confiscation proceedings may be instigated following a relevant conviction.

- A **Listed Building Enforcement Notice** (LBEN) – the council can serve a LBEN specifying the works that have occurred and specifying the steps to be taken to remedy the matter. Those steps may include restoring the Listed Building to its former state; or where this is not practicable or desirable, to execute further works to remedy the works that were carried out without the benefit of Listed Building Consent.

A Listed Building Enforcement Notice does not remove the possibility of prosecution (because works to a Listed Building without first obtaining Listed Building Consent is an offence).

- A **Stop Notice** (SN) – A Stop Notice can only be used in exceptional cases where it is considered essential to safeguard public amenity or to prevent serious or irreversible harm to the surrounding environment. There are restrictions on what a SN can prohibit. There is no right of appeal against a SN. Before serving a SN, the local planning authority must be satisfied that there are no alternative enforcement actions that would resolve the identified issues. A SN can prohibit any or all of the activities which comprise the alleged breach of planning control specified in a subsequent Enforcement Notice. It can require these activities to cease ahead of the date for compliance set out in an Enforcement Notice.
- A **Temporary Stop Notice** (TSN) – A temporary stop notice differs from a stop notice in that it does not need to be accompanied by, or follow, the issuing of an enforcement notice, instead, it can be issued on a stand-alone basis. A TSN is effective immediately. The requirements set out in the notice would prohibit only that which it is essential to prohibit in order to safeguard public safety or amenity in the neighbourhood, or to prevent serious harm being caused to the surrounding area's environment. However, it expires after a maximum period of 28 days, and it cannot be renewed. Therefore, its purpose is to require an unauthorised activity to

cease or to require a reduction in the level of an unauthorised activity, immediately, for a temporary period of time, whilst other enforcement remedies are considered. There are restrictions on what a TSN can prohibit.

- A **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.
- An **Injunction** – This is where the council consider that they need to apply to Court for an Injunction to restrain a serious breach of planning control. Injunctions are the most serious enforcement action that a council can pursue, because if a person fails to comply with an Injunction, then they can be committed to prison for contempt of court.
- **Direct Action** – In wholly exceptional circumstances the council may also consider taking steps to remedy the breach of planning control itself, which may include serving notice that its own employees or contractors have the right to enter the land and carry out the necessary works in default. If the council carries out works in default, steps will be taken to recover the costs of such action, including by putting a charge on the property.

All local planning authorities are required to maintain an Enforcement Register. This Register is a record of any Enforcement Notices, Breach of Condition Notices, Untidy Land Notices, Temporary Stop Notices and Stop Notices that have been served by the local planning authority. The Enforcement Register is available online via the council's Planning Enforcement webpages.

Making a complaint about an alleged breach of planning control

Anybody may make a complaint about an alleged breach of planning control.

The fastest way to report a complaint is by completing and submitting the online Complaint Report Form on our web site:

(https://www.wyre.gov.uk/forms/form/8/en/planning_enforcement_complaint_report_form)

Or by e-mail to planning@wyre.gov.uk.

For any complaint being made about an alleged breach of planning control the council will ask for the following information to be provided:

- The name, address, e-mail address, and contact telephone number of the person making the complaint;
- The identity of the person / organisation responsible for the breach and the date and / or Time the breach began (where known);
- The location of the property, or land to which the complaint relates;
- The nature of concern i.e. the alleged breach of planning control; and
- An indication of any harm being caused.

Except in special circumstances, the council will not act on anonymous complaints. In this respect 'anonymous' means where the name of the complainant and their contact details are not provided.

Complaints are dealt with in strict confidence, such that the complainant's personal details are not made known to any other party. There will be some circumstances where the council has to reveal information about witnesses e.g. if they are needed for an enforcement appeal or court hearing. There will be situations where the council cannot proceed with enforcement action without the willingness for complainants to act as witnesses.

How we will handle a complaint

Prioritising of complaints:

Some complaints will need to be investigated more urgently than others and these will be given higher priority:

Priority 1

- Listed building control where demolition or alterations are taking place.
- Protected hedgerows or trees where loss or damage is likely.
- Conservation area controls where immediate, irreparable damage would be caused.
- Planning controls or conditions that result in serious threat to health and/or safety.
- Development taking place within sensitive archaeological or ecological sites including County Heritage Sites and SSSI's particularly where it affects the natural and remote character of the area or harms the features of the SSSI.

Priority 2:

- Building works being carried out in an Area of Outstanding Natural Beauty or Green Belt.
- Other building works which are ongoing at the time of the submission of the complaint
- Uses of land and/or buildings that are causing harm to amenity or public safety and/or are seriously damaging to the valued characteristics of the area (e.g. noisy activities close to residential properties).
- Planning control or conditions that cause demonstrable nuisance and loss of amenity to the residential enjoyment of neighbouring properties.
- Advertisement control in conservation areas.
- Advertisement control involving widespread fly-posting campaigns.

Priority 3:

- All other complaints, including those relating to developments that are already complete or uses of land which already exist at the time the complaint is made.

The complaint will be given a priority classification, and an investigation will be carried out in accordance with the relevant timescale for that complaint:

- Priority 1: Investigation commenced within 1 working day of receipt of complaint
- Priority 2: Investigation commenced within 10 working days of receipt of complaint
- Priority 3: Investigation commenced within 20 working days of receipt of complaint

Any investigation will usually involve a visit to the site as well as more desk-based investigations such as looking into the planning history of the site. The investigating officer will also contact the complainant and the person(s) against whom the complaint has been made, in order to gather evidence relating to the alleged breach. Council officers are authorised, under the provisions of Section 196A of the Town and Country Planning Act 1990 (as amended) to enter any land at any reasonable time for the purpose of investigating whether or not there has been a breach of planning control. Nonetheless, if an owner/occupier of that land is present at the time, the officer will seek permission to go on to the land. Occasionally, more covert surveillance or monitoring may be required and, where necessary this would have to be appropriately authorised.

What happens next?

We will acknowledge receipt of the complaint in writing within 5 working days. This will provide the complainant with a case reference number and the name and telephone number of the officer who will be the case officer responsible for investigating the complaint.

Due to workload demands, Planning Enforcement Officers **will not** provide running commentary and will only contact complainants when there is a material change of circumstances in the case. The complainant will be notified of our findings and what action, if any, we propose to take as soon as we have concluded our investigations.

Dealing with enforcement complaints can be a lengthy and complex process and it is therefore not possible to give a standard 'target' time for dealing with complaints. Some developments involving the use of land may require monitoring over a period of time to determine whether or not a breach of

planning control has occurred. We may also need to seek additional information from you relating to the breach of planning control.

Where appropriate, the Enforcement Officers will liaise with other council Services and external agencies in order to ensure the most appropriate form of action is taken to resolve any complaint. Where the nature of the breach overlaps with responsibilities of another agency, the council will, as far as possible, work in partnership with that body to resolve the matter.

If a complaint is made about your property:

Where somebody has made an allegation to us that you are carrying out or have carried out operations or a change of use of land without planning permission, or where it is considered that there may otherwise be a breach of planning control, the site will be visited by an officer or officers of the council to determine whether or not a breach of planning control has occurred. In most cases this will involve looking around the site and/or buildings and may involve asking you questions to assist us in determining whether a breach of planning control has occurred. The site visit will normally be carried out without prior appointment and, if entry to the site or premises is necessary, an officer will introduce themselves to you or your representative, give their name and explain to you the purpose of their visit. This will include you being advised of the nature of the alleged breach of control. Where no one is available on site, the council reserves its right to carry out an unaccompanied inspection in accordance with the law.

Occasionally, it may be necessary to conduct more long-term monitoring or surveillance to establish whether there has been a breach of planning control. Under such circumstances we will ensure that such surveillance is appropriately authorised.

All of the council's planning officers and Enforcement officers have the powers under the relevant Planning Acts and the council's Scheme of Delegation, to enter land for the purposes of investigating breaches of planning control. Normally, and notwithstanding their right to enter the land, if you do not allow the officer(s) to enter the site or premises at that time, a date and time when entry must be permitted will be arranged by mutual agreement. Occasionally,

however, it may be necessary for the officer to look around the site immediately and you will be required to allow him/her access. Failure to allow such access is a criminal offence. If the site visit requires the officer to enter your home then, whilst you may refuse such a request, the officer may demand access at 24 hours' notice. Further confirmation of the rights of the officer to enter land will be produced on request. If entry is refused, the council can apply to the Magistrates Court for a warrant to enter the land/property under section 196B of the Town and Country Planning Act 1990 or other relevant legislation.

Often, it is necessary for further information to be gathered or assessed to determine whether the activity complained of constitutes a breach of planning control, and this may take some time. In order to acquire this information the council may send you a formal notice that you are required by law to complete and return to the council within a specified timescale. It is an offence not to comply with the requirements of this notice. The notice may in one of two forms, a Planning Contravention Notice (PCN) or a Requisition for Information Notice (S330 Notice). Further information on the nature of these notices can be found in the *What type of action could be taken* section of this document.

When receiving notification or a visit from an officer the Local Planning Authority advise not to ignore the matter and to respond promptly to any communication. The issue will not go away if there is no response. Failure to respond might even result in formal enforcement action being taken without further warning.

In some circumstances, where appropriate, you will be advised of your right to make a retrospective planning application to seek to regularise the breach, without prejudice to the decision that may be made on such an application. The council will, however, reserve its right to pursue enforcement action if it is expedient to do so. If you decide to submit a planning application, and it is subsequently approved, no further action will be taken provided any conditions attached to the planning permission are complied with. **It cannot be assumed that retrospective planning permission will be granted.**

Where it is considered that a breach of planning control has taken place and the council decides that it is expedient to take enforcement action, you will be

advised of this decision and the reasons why the action is considered necessary.

The relevant enforcement notice will subsequently be sent to you and potentially to any other persons who have an interest in the land (e.g. mortgagee). You will also be advised of your right to appeal.

Where the council issues an enforcement notice requiring compliance within a certain timescale we will visit the site to check such compliance within 5 working days of the expiry of the deadline and will inform you of our findings and any further action that may be considered. You should note that failure to comply with an enforcement notice within the time scale set out in the notice constitutes an offence in law and that the council could then proceed to prosecute you in the Magistrates Court.

Planning Enforcement and Direct Action Policy

In order to ensure the council is able to resolve breaches of planning consent, as a result of non-consented works, in a timely manner, there are a range of methods by which the council can secure compliance with the requirements of an enforcement notice.

This includes direct action which offers the opportunity for the council to resolve a breach through remedial action.

Section 178 of The Town and Country Planning Act 1990 (as amended) grants the Local Planning Authority additional powers to:

- Enter the land and take the steps to satisfy the requirements of a notice and
- Recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so

In light of the social, physical and financial issues surrounding the use of Direct Action, this Policy serves to provide details of the procedure/considerations for undertaking such action and the process by which the council will recover costs of this action.

When will direct action be taken?

Direct action may be taken either in isolation of or in conjunction with prosecution / injunction action. The council may choose to take action as follows:

- Where the requirements of an enforcement notice have not been complied with by the compliance date and;
- Where the council considers that direct action is necessary, considerations are given in light of significant harm to amenity caused by a planning breach.

Direct action procedure

Once the date to comply with the requirements of any type of enforcement notice expires, council officers will visit the site to check compliance. If following this site visit it is confirmed that the notice has not been complied with, in full, the council will assess whether it is expedient to take additional action, including prosecution, an injunction and/or direct action.

Where direct action is to be pursued, the council will write to the owner/responsible parties to advise of the intention to take direct action, at least 28 days before works are due to take place. In order to access the property, the council may need to liaise with other services including the police, bailiffs and/or a locksmith.

In taking direct action the council may appoint an officer to project manage the works on-site to ensure that the steps of the notice are complied with and the cost of this will be recovered. It should be noted that any materials, debris or other items that are removed from a premises throughout the course of undertaking direct action will be stored securely for a minimum of three days.

The council will take steps to advise the owner(s) of these items and how to recover such possessions. After this time the council may choose to dispose of this material or sell these on to recover the expenses of taking direct action.

Process for recovery of costs

In accordance with the provisions of Section 178 of The Town and Country Planning Act 1990 (as amended), the council will undertake all reasonable endeavours to recover expenses incurred in undertaking direct action.

A charge will be applied to the land and an invoice sent to owners/responsible party(s); this charge is binding on successive owners of the land to which the original Enforcement Notices relates. This charge will take effect on the date that the council undertakes direct action to comply with the Enforcement Notice.

The expenses recoverable will include such sums as the council considers reasonable in respect of its establishment charges. An establishment charge is the reasonable charge that a Local Authority incurs for administering the direct action procedure.

The council will take all reasonable steps to recover the expenses as a debt and will raise an invoice in accordance with its existing practice and procedure. As a matter of priority, the council's Land Charges Service will be notified of the recoverable sums that will be entered as a record against the property in the register of local land charges. If the debt remains unpaid, the council will take steps to register the charge at the Land Registry.

Standards of Service

Public confidence in the enforcement system is essential, which is why the local planning authority will always strive to investigate cases in accordance with the procedures set out in this Local Planning Enforcement Plan. Local planning authority officers involved in the planning enforcement process will conduct themselves impartially at all times and will act in the wider public interest, within the legislative boundaries of planning control.

Officers will apply the principles of openness, helpfulness, proportionality, and consistency when discharging their duties. Whilst the local planning authority expects high standards of service from its Officers, it also expects a similar level of communication from those involved in any enforcement investigation.

The local planning authority will also not tolerate unreasonable behaviour by any party. This may include unreasonably persistent complaints; pursuing a ‘scattergun’ approach to your complaint by copying multiple officers or organisations into correspondence; or making unnecessary and excessive demands on officer time.

The council treats very seriously any threats made against its employees. Any person making such threats may be reported to the Police who may then be requested to accompany the enforcement officer on any future site visit. The council has the full support of the Police in this regard. Nothing set out in the above shall be construed as limiting either your legal rights or obligations or the council’s rights to take any action as set out in relevant legislation.

Planning Law and Guidance

Sections 171 to 196 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, provide the legal basis for planning enforcement, including powers to serve various notices. A number of other documents provide more detailed guidance on the operation of these powers:

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- RTPI Practice Advice Note 6: Enforcement of Planning Control
- The Enforcement Concordat

Human Rights issues

The European Convention on Human Rights (ECHR) was brought into English law via the Human Rights Act 1998 (HRA) with effect from October 2000. The HRA introduces an obligation on the council to act consistently with the ECHR. There are 3 Convention Rights likely to be most relevant to planning decisions:

- Article 1 of the First Protocol - Protection of Property
- Article 6 - Right to a Fair Hearing
- Article 8 - Right to respect for Private and Family Life

It is important to note that these types of right are not unlimited. Although in accordance with the concept of 'proportionality' any interference with these rights must be sanctioned by law, (e.g. The Town and Country Planning Act 1990) and must go no further than necessary. Essentially, private interests must be balanced against the wider public interest and against competing private interests. However, human rights issues must be taken into account when reaching decisions on all planning applications and enforcement action. The public sector equality duty must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in s.149. The level of consideration required (i.e. due regard) will vary with the decision.

Crime and Disorder Act 1998

Section 17 of this Act provides that without prejudice to any other obligation imposed on it, it shall be the duty of a local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent: (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.