



Planning Enforcement

2024

National Planning Policy Framework 2023 (NPPF). Paragraph 59 of The framework states:

‘Effective enforcement is important to maintain 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. They 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.’



Planning Enforcement

- ▶ Ask yourself is this 'Development' as defined by the Planning Act?
- ▶ Development – works which materially effect the external appearance of a building or materially change its use.
- ▶ Not everything is a planning enforcement matter
- ▶ Internal refurbishments and alterations also do not require planning permission. Unless the building is a Listed Building.
- ▶ It is not a criminal offence to carry out works without planning permission
- ▶ It is criminal offence to carry out works to listed building without consent or a TPO tree.

Prioritising Cases Enforcement Plan

- ▶ Top includes works to listed buildings and works to protected trees. 1 to 2 working days
- ▶ High include works that cause significant harm within a Conservation Area and significant harm to residents.
- ▶ Medium includes development causing minimal harm. Development including extensions and outbuildings
- ▶ Low includes. Fences , Sheds and variations from planning permission



Initial Investigation

- ▶ What happens when an enforcement complaint?
- ▶ Does the development fall within Permitted Development (PD)?
- ▶ Does the work have planning permission?
- ▶ How to help the enforcement officer in investigation
- ▶ Changes of use can be tricky, it needs to be a material change and this is a matter of fact and degree.
- ▶ Photo; Change of use in Tonbridge . No evidence found of catering business on site/ no advertising found

Immune from Enforcement

- ▶ How long has this development been in place? Operational development now 10 years in line with changes of uses and breaches of condition (changed by Levelling-up and Regeneration Act 2023).



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Initial Action

- ▶ If case is not immune, is not PD and does not have PP then:
- ▶ We send a warning letter . This will advise the offender that they should regularise their development.
- ▶ The letter will state the breach. What their options are and what the consequences are if they do not follow the advice. It will as stated above encourage the submission of retrospective applications or certificates.

Expediency

- ▶ What do we do after sending an initial warning letter out inviting a planning application or certificates of lawfulness :
- ▶ If no response we will then assess whether it is expedient to take formal enforcement action.
- ▶ Enforcement action should not be taken for regularisation alone



Tools to enforce

- ▶ Negotiation – often the quickest way to resolve a breach. Big backlog with the Planning Inspectorate so currently long waits for appeal decisions.
- ▶ Planning Contravention Notices (PCN's)
- ▶ Enforcement Notice. Can only be served once the development is in place
- ▶ LB enforcement notice
- ▶ Breach of Condition Notices
- ▶ S215 Untidy land
- ▶ Enforcement Warning Notices (very new) Inviting applications .
- ▶ Stop Notices and Temporary Stop Notices – compensation risk
- ▶ Completion Notices

Tools to enforce Post notice

- ▶ Direct action
- ▶ Prosecution
- ▶ Injunction