



West Berkshire District Council

Enforcement Plan

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Planning Enforcement Plan

This document sets out how the Council will deal with potential planning breaches.

It provides information and guidance for residents, developers and other interested parties, on how complaints about unauthorised development are handled. It seeks to balance the concerns of local residents with the rights of owners and sets out the priorities and timescales for responding to complaints, carrying out investigations and taking appropriate enforcement action where necessary.

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Introduction

West Berkshire District Council is responsible for dealing with planning enforcement in the District.

The statutory basis for planning enforcement is contained in Part VII of the Town and Country Planning Act 1990. Enforcement powers available to the Council include the service of enforcement notices, breach of condition notices and stop notices and the taking of legal proceedings by way of an injunction where appropriate.

The taking of enforcement action is discretionary and, as referred to in the body of the Report, is a matter of expediency with government guidance published as to when enforcement action should be considered.

The use of enforcement powers is guided by the National Planning Policy Framework (2021) (as amended). Paragraph 59 of the Framework outlines that:

“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.”

Development without planning consent may cause frustration, upset and/or even distress for residents, businesses and visitors to the District. Breaches of planning control are covered by planning legislation. Most breaches are not criminal offences, but there are some notable exceptions, such as unauthorised works to listed buildings, unauthorised works to trees subject to a Tree Preservation Order, and unlawful advertisements.

All complaints regarding potential breaches of planning regulations are investigated by a suitably qualified Officer who, in conjunction with the Planning Development Control Manager (as appropriate) will decide what action should be taken. Decisions are based on the merits of each individual case, and enforcement action is taken only when it is considered rational, reasonable, proportionate and expedient.

The Councils Complaints Procedure comprises two stages to the complaints procedure, the initial stage (Stage 1), the review stage (Stage 2). Following this there is the option to go through the independent review stage, or Local Government and Social Care Ombudsman (Stage 3). The Ombudsman looks for maladministration that causes personal injustice, a fault in the way the Council has or has not done something which has created a difficulty personally for the individual. The Ombudsman cannot question whether a council's decision or action is right or wrong simply because the complainant disagrees with it.

Expediency

The Council's planning enforcement powers are discretionary, and we will not take action simply because there has been a breach in planning control.

Enforcement action should only be taken where the Council is satisfied that it is 'expedient' to do so, having regard to the provisions of the Development Plan and to any other material planning considerations.

In making this assessment the Council will gather evidence regarding the nature and scale of the breach, and whether it unacceptably affects public amenity and/or the built or historic environment.

Guidance for planning practitioners under the National Planning Practice Guidance ('NPPG') Para: 018 (Ref ID: 17b-018-20140306) accentuates the above.

Planning enforcement – principles and definitions

What is development? The meaning of development is defined within the Town and Country Planning Act 1990 Section 55 as: 'the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of any material change in the use of any buildings or other land.'

What is a breach in planning control? A breach of planning control is defined under Section 171A of the Town and Country Planning Act 1990 as: (a) 'carrying out development without the required planning permission; or (b) failing to comply with any condition or limitation subject to which planning permission has been granted.'

West Berkshire District Council undertake a firm but rational and reasoned approach to regulation based upon the following principles:

- Proportionality;
- Consistency;
- Transparency;
- Targeting of enforcement action and raising awareness; and,
- Accountability.

Proportionality

Enforcement action will be proportionate to the scale of the alleged breach and the seriousness of the harm caused. We will minimise the costs of compliance by ensuring that any action we take is proportionate to the risks. When it is in the public interest to do so, we may prosecute individuals or organisations who do not comply with any formal notice served on them. When it is appropriate, we do also have the option of taking direct action, having regard to the degree of harm and public safety.

Consistency

Taking the same approach in similar circumstances, where possible, to achieve results. We do need to investigate each matter on its own merits. We will also be consistent in how we treat customers.

Transparency

We will ensure that everyone involved with cases understands our processes and procedures, including what rights of complaint and appeal may be open to them. We will seek feedback from service users in order to learn and improve.

Targeting enforcement action and raising awareness

Planning enforcement is a high volume, demand based service. As a consequence, targeted enforcement action is very important. Raising awareness of planning management and enforcement will help to reduce unauthorised works and increase public confidence in our service.

Accountability

This local enforcement plan document, which has been agreed by the Planning Portfolio Holder and with Planning Committee chairs, sets our priorities for action. The success of the policy will be monitored and reviewed regularly. In addition, we will provide an annual performance report to the Planning Advisory Group.

Investigations

The Council's Planning Enforcement Service can investigate the following:

- Development consisting of the change of use of land/buildings without planning consent;
- Internal and external works to listed buildings without consent;
- Unauthorised building works and/or engineering works;
- Non-compliance with conditions attached to planning permissions;
- Display of unlawful advertisements;
- Condition and appearance of buildings and/or land which is visually detrimental to the area;
- Unauthorised development that causes detrimental environmental harm;
- Listed buildings in serious disrepair; and,

- Relevant demolition (requiring Planning Permission or Listed Building Consent).

The Council's Planning Enforcement Service cannot investigate the following:

- Internal works to a non-listed building;
- Boundary wall disputes and other land ownership issues as these are civil matters outside of planning legislation;
- Legal covenants;
- Devaluation of property;
- Obstructions, parking, traffic enforcement and any other matters affecting the Public Highway*;
- Anti-social behaviour*;
- Dangerous structures that are not listed buildings*;
- Noise nuisance*;
- Events/potential breaches that may occur in the future;
- Odour issues*;

*The Council or Partner Agencies (such as Environmental Health, Environment Agency, Police Force, Housing and Council Tax), also have other powers to deal with these issues - please see Useful Contacts in Appendix A of this plan.

Limits on taking enforcement action

Timescales

Section 171B of the Town and Country Planning Act (as amended) sets out time limits for taking enforcement action. The Council can take enforcement action against unauthorised operational development, or for an unauthorised change of use to a single dwelling house, up to four years from the date the development is substantially completed.

Operational development includes for example (this list is not intended to include all works):

- Erection of a front, side or rear extension;
- Alterations to the roof;
- Alterations to commercial buildings;
- Certain engineering works; and,
- Erection of a structure or building

For any other unauthorised development, including changes of use or breach of planning conditions, the Council may take action up to ten years from the commencement of the breach.

After these periods the Council cannot take action and the development becomes lawful. The landowner can apply for a Certificate of Lawful Existing Use or Development (CLEUD) after this period to regularise the situation. This involves providing evidence that proves, on the balance of probability that the breach of planning control has occurred for the relevant time period.

Listed buildings

Carrying out works that affect the special interest of a listed building and the demolition of a building in a Conservation Area without consent are both criminal offences. Expert heritage advice should be sought if there is any doubt as to whether consent should be obtained and, if in doubt, owners are encouraged to talk to their Local Planning Authority before works are undertaken. For listed buildings there is no time limit to taking enforcement action. It is also a criminal offence to carry out unauthorised alterations to a listed building without appropriate permission.

Scheduled Monuments

Although scheduled monument consent is a separate regime, unauthorised works are a criminal offence under the Ancient Monuments and Archaeological Areas Act 1979.

Tree Preservation Orders/Ancient Woodland

It is a criminal offence to cut down, lop, wilfully destroy or damage a protected tree without the Council's consent. The Council can prosecute you for breaching a Tree Preservation Order and also for damaging or destroying areas of ancient woodland. There is no time limit to taking enforcement action.

Adverts

The display of advertisements is subject to a separate consent process within the planning system. Parties who display an advertisement in contravention of the planning regulations are committing a criminal offence. For example, by displaying an advert without the necessary consent or without complying with the conditions attached to that consent.

Minerals and Waste

Minerals and Waste Enforcement can at times be considered a specialist area of planning control within the council's development and regulation function and in conjunction with other external agencies. As such, it can sometimes require a different approach to mainstream planning enforcement depending on the circumstances. West Berkshire Council therefore employs specialist officers who should be contacted in the first instance via Minerals@westberks.gov.uk for any help, advice and guidance on monitoring, relevant planning permissions for minerals, waste or Regulation 3 developments and legal agreements attached to minerals and waste sites'.

Making an enforcement complaint

Complaints about potential breaches of planning control can be made using the form on the Council's website.

<https://www.westberks.gov.uk/planning-breach>

A copy of the form can be sent out to complainants if requested (contact 01635 551111 for a copy of the form).

All of the questions/fields on the form should be completed and where possible photographs should be attached.

The Council will not investigate anonymous complaints. It is important that officers are able to understand the complaint, identify the harm and make a fair assessment. We also need to prevent malicious and vexatious complaints.

Confidentiality

Any details submitted to the Council in relation to an enforcement complaint will be treated in the strictest confidence.

The Council will not reveal the identity of the complaints to an owner or responsible party(s). However, sometimes complainants may be asked provide evidence to assist further with the matter or for any legal proceedings of the investigation.

In addition, enforcement complaints may be subject of a Freedom of Information request or if a request is made for all personal data we hold about a person under the Data Protection Act. If such a request is made we will have to consider the matter for release.

Priorities for planning enforcement investigation

As indicated, the planning enforcement service is a high volume, demand-based service. Therefore, it is important that different types of breach are prioritised in a clear and transparent way. The prioritisation set out below is based upon the significance, urgency and seriousness of a reported breach.

All investigations will be carried out thoroughly and accurately in accordance with the following priorities:

Level 1 (highest category)

Cases that fall within this category include:

- Unauthorised ongoing works to a Listed Building;
- Large scale development or change of use where a significant detrimental environmental impact is felt over a wide area;
- Development or changes of use with detrimental impacts upon the continued health and wellbeing of the public and the environment;
- Substantial works (including demolition) in a Conservation Area;
- Shop signage in a Conservation Area;
- Unauthorised felling, topping or lopping of a tree(s) protected under a Tree Preservation Order, Ancient Woodland or in a Conservation Area;
- Tree Replacement Notices;
- Completed but unauthorised works to a Listed Building; and,
- Unauthorised caravan sites or other development where there is actual or imminent residential occupation.

Level 2 (medium category)

Cases that fall within this category are defined as development that is contrary to Development Plan Policy or Government Policy, is unacceptable, cannot be justified, and which causes some level of environmental/residential harm. This could include:

- Residential and commercial extensions and shopfronts;
- Breaches of condition where no serious implication/harm is caused;
- Changes of use including House of Multiple Occupation (HMO);
- Condition of buildings or land in poor condition;
- Works not in accordance with planning permission;
- Tree Replacement Notices;
- Shop signage in a Conservation Area;
- Any work in a Conservation Area where no serious implication/harm is caused; and,
- Unauthorised signage and advertisements.

Level 3 (lowest category)

Cases that fall within the category include:

- Any breach of planning control which is of a temporary nature (unless public safety or highways safety is compromised);
- Unauthorised fences, walls and gates;
- Satellite dishes; and,
- Flues.

Please note: Officers may re-prioritise cases after receiving a further complaint based upon the nature of the alleged breach and its impact.

Service Standards and Objectives

We recognise the importance of keeping individuals up to date with our progress. Some investigations can take longer than others, but we will deal with all cases in a rational and transparent way.

Complainants can expect:

- A written acknowledgement within five working days of the complaint and the case will be placed in the relevant priority. The decision on the priority rests with the Principal Enforcement Officer and Development Control Manager.
- Site visits to be undertaken in accordance with the 'Timeline' section below.
- To be informed at key stages of the process when necessary e.g. the complainant(s) will be advised if a planning application is invited; when a planning application is received; whether an enforcement notice has been served etc.
- To be informed of the final outcome of their complaint.
- In some cases, we may ask a complainant for further details. If the complainant is unwilling to assist, this may result in the Council not being able to pursue the investigation due to insufficient evidence.
- There are no set timescales for the closure of an enforcement case. Investigations and action can take a long time. However, we will seek to provide an update at each significant stage. Complainants can also email the case officer who will respond within ten working days.

Owners of the land/properties that are complained about can expect:

- Clear and open communication on the circumstances of the alleged breach including an explanation of what steps are required to resolve any breach and the possible consequences if those steps are not taken.
- A thorough investigation of the complaint before a decision is made.
- To be given an opportunity to put things right, along with information on how long they have to do this and the consequences of failing to do so.
- Formal enforcement action to be taken, if necessary and appropriate, if attempts to negotiate a remedy fail.
- To be informed in writing if the Council decides to proceed to formal enforcement action and what form that will take.
- Information on how to appeal against notices, where applicable.

Timeline when making an enforcement complaint

Receipt of the complaint

When a complaint is received by the Council it will be subject to initial screening and categorised as Level 1, Level 2 or Level 3.

The complainant will receive an acknowledgement within five working days of receipt.

The Council will not investigate:

- Anonymous complaints,
- Boundary disputes between neighbours,
- Property and land ownership issues which are not planning related;
- Breaches of covenants;
- Loss of views;
- Competition between businesses; or
- Trespass

The Council will not investigate persistent complaints which have previously been investigated and resolved or vexatious or malicious complaints, this in line with the Councils 'Persistent & Prolific Complaints Handling Procedure' 2014 version 5 document ref: WBC/SS/SE/0117.

Initial assessment

An initial assessment will aim to be carried out within:

- 5 working days or sooner for cases in Level 1

- 20 working days or sooner for cases in Level 2
- 30 working days or sooner for cases in Level 3

In most circumstances, this will include a site visit. Once the initial assessment/site visit has been carried out, we will notify the owner or occupier of the offending site, as to whether or not it falls into the category of a breach of planning control.

If no breach is discovered the case will be closed and relevant parties will be informed and provided with an explanation as to why the case was closed.

If there is a breach

If a breach has occurred it is open to the Council to take formal action, where it is expedient to do so. The decision on what enforcement action should be taken will depend on the individual circumstances of the case. The owner and/or relevant party will be advised by the Council of the action that they will be required to take to remedy the breach.

This could include:

- Requirement to cease the use or remove any unauthorised development; or,
- Submit a planning application to regularise the breach or provide a revised scheme to address unauthorised works that are considered unacceptable.

The owner and/or relevant party will be given a reasonable timeframe (the timeline will depend on the circumstances of the case) to comply with these requirements.

Should this period expire without the breach being remedied, the case officer will carry out a second assessment, taking into account the current intentions and actions of the owner and/or relevant party to this point.

Formal Notices

Where the Council are unable to negotiate an acceptable solution within a reasonable timescale, formal action will be considered to prevent a protracted process. This could involve the Council considering serving a formal notice. These Notices are set out in Appendix C.

Failure to comply with Formal Notices

Where a notice has been served and has not been complied with, there are three main options available to the Council to attempt to resolve the breach:

Direct Action

Where the terms of an Enforcement Notice or Section 215 notice have not been met within the compliance period (other than the discontinuance of the use of land), we will

consider whether it is expedient to exercise our powers to enter the land and take the steps to remedy the harm. We would seek to recover from the person who is the owner of the land any expenses reasonably incurred by us in doing so.

Prosecution

We will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any enforcement notice, or Breach of Condition Notice where the date for compliance has passed and the requirements have not been complied with. Prior to commencing with any legal proceedings, we will need to be satisfied that they are in the public interest and that there is enough evidence to offer a realistic prospect of conviction.

Unauthorised adverts and unauthorised works to any tree the subject of a Tree Preservation Order are offences and we are able to initiate prosecution without the need to issue a notice.

Injunction

Where an enforcement notice has not been complied with, and the particular circumstances of the case suggest direct action or prosecution would not be effective, we will consider applying to the Court for an injunction.

In addition to the 3 options above, for certain breaches the following are also options:

Removal Notices

We will seek removal of any structure used to display an advertisement. Where the notice is not complied with we may undertake the works and recover the expenses for doing so.

Replacement Notices

It is open to the Council to issue tree replacement notices, requiring trees to be replanted.

Timescales

The enforcement team aims to reach a decision on all cases about whether or not to take action wherever possible within eight weeks of receipt of the complaint and will provide an update to the property owner and complainant. The merits of each case would vary on a case by case basis and may involve colleagues within other parts of the Council which sometimes surpasses the eight week time frame. However, the Council would update all interested parties as soon as possible should this be the case.

Involvement with Local Members

Potential breaches are reviewed by relevant Officers; however Local Ward Members can make contact should they wish to discuss a breach with the relevant Officer.

Communication

Investigating possible breaches of planning permission can be stressful for both the party making the complaint as well as the person under investigation. This is partly due to the different ways in which an investigation can progress and the timescales involved.

To try and ease concerns and assist with the uncertainty, the enforcement officers will provide updates during the course of an investigation if and when there is a significant change/event and when the case is closed/complete.

No Formal Action

In some cases the enforcement team will not be able to take formal action against developments that are reported by members of the public. For example, when:

- The works or change of use fall within 'permitted development' tolerances under the terms of the Town and Country Planning (General Permitted Development Order) (England) 2015 or the Town and Country Planning (Use Classes) Order 1987 (as amended). Further information on the General Permitted Development Order can be found on the Government Planning Portal at www.planningportal.co.uk;
- An advertisement benefits from 'deemed consent' under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Further information on advertisement consent can be found on the Government Planning Portal at www.planningportal.co.uk
- Immunity from enforcement action has occurred (as outlined below);
- The works are considered 'de minimis' i.e. too minor to fall under the scope of planning control.

Guidance for planning practitioners under the National Planning Practice Guidance ('NPPG') Para: 011 (Ref ID: 17b-011-20140306) emphasises that Local Planning Authorities should 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.

When should we take enforcement action?

Expedient

Council officers consider a case to be expedient when:

- Further negotiation is needed to resolve the breach.

- Further evidence is required. This can be achieved through the service of a formal Planning Contravention Notice (PCN) or research of previous uses/permissions.
- A formal notice is served. The most common types of notices used include Section 172 Enforcement Notices and Section 215 Amenity Notices under the Town and Country Planning Act 1990 and Section 38 Listed Building Enforcement Notices under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Not Expedient

The Council will use its discretion when deciding whether to take formal enforcement action. Planning breaches may be unintentional or be considered technical or very minor. In line with government policy and guidance within the National Planning Policy Framework (NPPF) and Planning Practice Guidance, the Council will take action when it is considered fair and reasonable to do so and is proportionate to any harm caused. In some cases although there is a breach in planning control, the harm caused is minor, meaning action is not justified: i.e. it is not expedient to pursue the case.

Although 'harm' is not defined in the planning regulations, harm can include an unacceptable impact on:

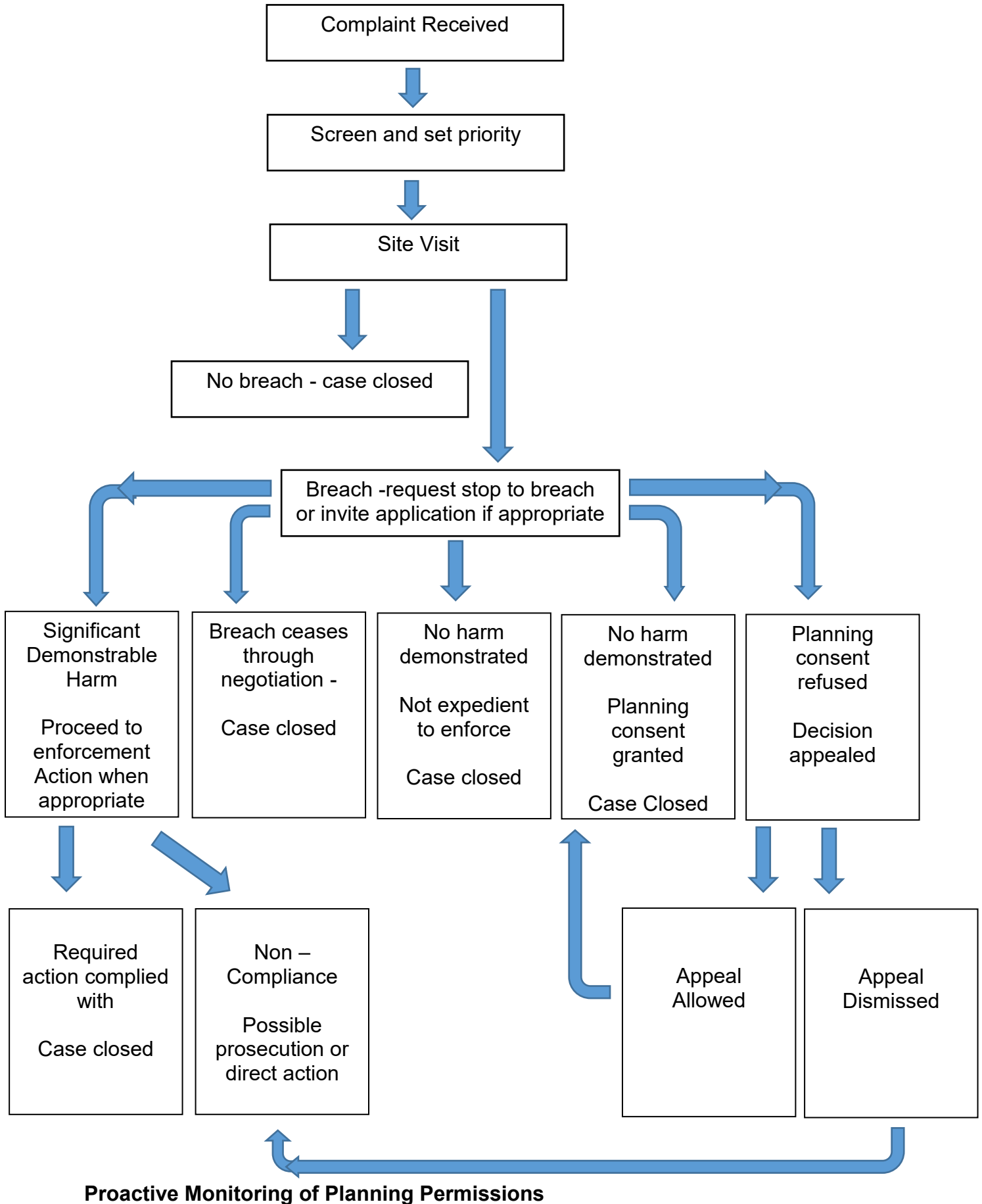
- Visual amenities and the character of the area;
- Neighbouring amenities such as privacy/overbearing/daylight/sunlight;
- Noise/odour/pollution, such as contamination;
- Highway safety/access/traffic;
- Health and safety;
- Undesirable precedent;
- Ecology, trees and landscape; and,
- Amenity standards of users of the development.

A tool to assist in assessing harm is set out in Appendix B.

Timescales

Planning enforcement action can be a lengthy process and potentially frustrating for all involved. The enforcement team aims to resolve breaches as quickly as possible. However, due to the level of research sometimes required and the effects of external factors (such as the timescales involved in appeals to the planning inspectorate and prosecutions) some cases will take a long time to resolve.

The Enforcement Process



The Council's planning enforcement team presently offers a reactive planning enforcement service responding to alleged breaches of planning control. The council is seeking to introduce proactive monitoring of key planning conditions on larger development sites where practical and will take enforcement action where necessary.

Whilst the responsibility to adhere to planning permissions and comply with associated conditions lies with those undertaking the development, the department recognise the importance of addressing harmful breaches of planning control. As a result, where possible and where resources allow, the department will use its own resources and promote cross department liaison to identify breaches of planning control and monitor compliance with conditions imposed on planning permissions and S106 monitoring.

Local land charges are generally financial charges or restrictions on the use of land which are governmental in character and imposed by public authorities under statutory powers. WBC uses this power to enforce things such as: conditions imposed in a planning permission (these form the majority of charges); Listed Buildings, Conservation Areas; Tree Preservation Orders, Planning and Enforcement Notices. The charge will affect the land rather than the person and if registered correctly, will show up on any search carried out by a person on the land it is registered against.

Equality

As required as part of the Equality Act 2010 Section 149, in the drafting of this plan due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity between different groups and foster good relations between different groups. It is not considered that the Enforcement Plan would conflict with the requirements of the Equality Act 2010 or the council's policy on equality.

Review of the Enforcement Plan

Regular reviews of this enforcement plan will be necessary to ensure it remains current with the most up to date government legislation and guidance. Reviews will therefore be carried out when legislation and guidance changes are introduced or if a high number of enquiries are received about a particular part of the plan from customers. We welcome comments on this Planning Enforcement Plan and any other matter relating to the Enforcement Service.

Please contact:

Planning Development Control Manager
Council Offices, Market Street
Newbury, RG14 5LD

Main Number (01635) 551111

Email: planningenforcement@westberks.gov.uk

Specific enquiries relating to a particular case should be referred to the case officer or their immediate line-manager.

Appendix A

Useful contacts

Building Control

The main purpose of Building Control is to ensure that all building work complies with the Building Regulations. Building Control also investigate buildings and other structures which may be dangerous. The team can be contacted on (0300) 7900580 and email: help@BCSolutions.org.uk

Environmental Health

The team regulate a wide range of activities, and operate to a clear enforcement policy of their own. Public Protection Services consists of those matters enforced by the Trading Standards, Environmental Health and Licensing Services. . The team can be contacted on (01635) 503242 and email: ehadvice@westberks.gov.uk

Empty Homes Team

The main purpose of the empty properties team is to help homeowners, potential investors and neighbours to ensure empty properties are returned to use. The team can be contacted on (01635) 519192 and email: EmptyHomes@WestBerkshire.gov.uk

Highways

The highways team co-ordinates and monitors public highways in the District. Visit <https://www.westberkshire.gov.uk/roads-and-transport> for a list of all the areas the highways team cover. The team can be contacted on (01635) 5192080.

Housing

The housing team covers all housing which is not owned by the Council. The team can be contacted on (01635) 551111 or visit <https://www.WestBerkshire.gov.uk/Housing> for a list of services and ways to contact the team specific to your complaint.

Partnership for Action against Wildlife Crime (PAW)

If you witness a suspected wildlife crime in action call 999 immediately and ask for the police. For all other enquires call 101. For further information on reporting, visit PAW https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/328652/paw-reportingcrime-leaflet.pdf

Trees

The arboricultural service deals with most tree-related issues. The team can be contacted on (01635) 551111 or visit <https://www.WestBerkshire.gov.uk/tree-information-and-preservation-orders> for further information.

Appendix B

Tool to assist with assessing harm*

				Score
1	Is the breach	Deteriorating Stable	(1) (0)	
2	Highway safety issue	Yes No	(2) (0)	

3	Other safety issue not covered by other legislation	Yes No	(2) (0)	
4	Causing detrimental or irreversible environmental harm	Yes No	(1) (0)	
5	Complainant	Immediate neighbour Parish Council/Other Anonymous/malicious	(2) (1) (0)	
6	Age of breach	Within six months of immunity Less than three months old More than three months old	(2) (1) (0)	
7	Is there harm	Widespread Local None	(2) (1) (0)	
8	Major planning policy breach	Yes No	(1) (0)	
9	Flood risk	Yes No	(1) (0)	
10	Breach of planning condition or Article 4 Direction	Yes No	(1) (0)	
11	Conservation Area or adjacent to	Yes No	(1) (0)	
12	Listed Building or affecting the character or setting	Yes No	(1) (0)	
13	Particularly sensitive site, such as SSSI, AONB, Schedule Ancient Monument, Listed Garden, Archaeological Importance	Yes No	(1) (0)	
14	Undesirable precedent (please provide details)	Yes No	(1) (0)	

* For formal enforcement action to be taken, it is likely that the harm score will need to be 6 or more. This is only one of the tools/tests that the Council will use to assess whether formal enforcement action should be taken.

Appendix C

Enforcement Glossary

This glossary provides the enforcement options available to the local planning authority.

Breach of condition notice (BCN)

A breach of conditions notice under Section 187A of the Town and Country Planning Act 1990 requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the Local Planning Authority in the notice. There is no right to appeal against this notice and prosecution can be brought in the Magistrates' Court for the offence of contravening a breach of condition notice.

Default powers

The Council may enter the land and take the necessary action to secure compliance when enforcement notices are in effect. This is only used in extreme cases and when resources allow. The Council will seek to recover all costs associated with carrying out the works in default.

Discontinuance notice

Where a person has displayed an advertisement with deemed consent that the authority is satisfied causes a substantial injury to the amenity of the area or is a danger to members of the public, a discontinuance notice can be served under Regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 seeking the removal of the advert.

Injunction

This involves seeking an order from the court preventing an activity or operation from taking place. Failure to comply with the requirements of an injunction amounts to a criminal offence.

Listed building enforcement notice

A Listed Building enforcement notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 will require the recipient to secure compliance with the terms of the notice. Works to listed buildings without consent is a criminal offence and prosecution may occur alongside the enforcement notice, subject to severity/context. There is a right of appeal of this notice.

Negotiation

Negotiation is encouraged in all but the most serious cases as the best way to resolve a breach and in some cases can be more expedient than issuing an enforcement notice.

Planning contravention notice (PCN)

This is a notice which allows the Council to collect evidence which will help to determine if a breach is taking place and the next steps. The owner and/or person responsible have 21 days to respond and failure to do this may result in prosecution.

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 the Council to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

Prosecution

It is a criminal offence not to comply with the requirements of a statutory notice, to display an advertisement without consent or undertake works to a listed building without consent. The Council can prosecute or formally caution.

Section 172 Enforcement Notices

The enforcement notice allows the Council to formally require a breach of planning control to be remedied. Government guidance states that enforcement notices should only be served when expedient to do so. Failure to comply within the specified timeframe is a criminal offence which can lead to prosecution proceedings. Enforcement notices can be appealed, and the Planning Inspectorate can decide to uphold the notice, amend it or have it quashed.

Section 215 notices

Where the condition of land or a building is adversely affecting the amenity of a neighbourhood the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to remedy the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the costs from the owner.

Stop notice

This can be used in conjunction with an enforcement notice where the breach of planning control is causing serious harm and should only be used in extreme cases. In such cases where stop notices are issued the Council may be liable to pay compensation if it is later decided that the stop notice was not appropriate. For these reasons, serious consideration needs to be given to the appropriateness of serving a stop notice.

Temporary Stop Notice

These are similar to stop notices but take effect immediately from the moment they are displayed on a site and last for up to 28 days. A temporary stop notice would be issued only where it is appropriate that the use or activity should cease immediately because of its effect on (for example) amenity, the environment or public safety. It may be issued even when planning permission has been granted for development, for example, in a case where the developer is not complying with conditions attached to the permission.

Urgent works notice

This is a notice under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that applies to unoccupied listed buildings in serious disrepair. It enables the Council to order urgent works to preserve the building, for example to make it weather tight and secure. If the notice is not complied with the Council may carry out the works in default and recover the costs from the owner.

Prosecution

It is a criminal offence not to comply with the requirements of a statutory notice, to display an advertisement without consent or undertake works to a listed building without consent. The Council can prosecute or formally caution.