



Planning Enforcement Protocol

September 2015

What Is Planning Enforcement?

Planning Enforcement is a process to investigate cases where development without planning permission is taking place and to ensure that development with planning permission takes place in accordance with the approved plans and planning conditions.

Planning enforcement is a discretionary function and the council will take a proportionate approach in responding to alleged breaches of planning control. This means that the impacts of any unauthorised development are assessed at an early stage and the case prioritised accordingly. The Council's focus will be on those cases where the impacts are significant.

It is recognised that public confidence in the planning system would be quickly undermined if development is not monitored or unauthorised development is allowed to proceed without intervention by the Local Planning Authority. The Council has the primary responsibility for taking enforcement action in the public interest, having regard to the risk and harm arising from the alleged breach. In this respect the approach taken by Shropshire Council is to seek relevant information from complainants at an early stage. This will help prioritise the case and officers will work with complainants and other relevant parties to identify resolution quickly, having regard to the wider public interest.

WHAT ARE BREACHES OF PLANNING CONTROL?

- Unauthorised erection of a building
- Development not in accordance with the approved plans of planning permissions
- Unauthorised change of use of a property
- Unauthorised works to trees protected by a tree preservation order or in a conservation area
- Carrying out works to a listed building without listed building consent
- Unauthorised demolition in a conservation area
- Failure to comply with the conditions attached to a planning permission
- Failure to properly maintain land so that it affects the amenity of the area
- Displaying a sign or advertisement without advertisement consent

WHAT ARE NOT BREACHES OF PLANNING CONTROL?

- Parking of commercial vehicles in residential areas or on grass verges.

- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity.
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection
- Parking of a caravan within the curtilage of a residential property provided that it is stored, or used as an extra bedroom, and not used as a separate, self-contained residential unit.
- Obstruction of a highway or right of way
- Boundary disputes (civil matter)
- Deeds and covenants (civil matter)
- Where development is 'permitted development'

HOW DO I REPORT BREACHES OF PLANNING CONTROL?

The simplest way to report a planning enforcement problem is by completing the online form on the website following the link below:-

<https://shropshire.gov.uk/planning/submit-a-planning-enforcement-query/>

Alternatively you can contact us by telephone: 0345 678 9004;

In Writing: Development Management, Shirehall, Abbey Foregate, Shrewsbury SY2 6ND;

Email - planningenforcement@shropshire.gov.uk You

will be asked to provide the following:

- Your name, address and contact details.
- The address / location where the breach is taking place.
- What you consider the breach of planning control to be.
- How it affects you and the harm arising from the alleged breach.
- What solutions you consider would resolve the matter.

Please be prepared to identify yourself as anonymous complaints will only be investigated at the discretion of the Council. If the above information is not provided the council will not register your complaint and if the matter being reported is considered to be a minor breach of planning control the council may decline to investigate the matter.

WHAT HAPPENS NEXT?

Upon registration of the complaint a dedicated case officer will be appointed to the case and will undertake an initial investigation. Upon registration our policy is to inform the following interested parties:

- The Local Member
- The relevant Town or Parish Council

- The complainant(s)

WHEN WILL FORMAL ENFORCEMENT ACTION BE COMMENCED?

Many enforcement cases involve minor technical breaches which can be resolved relatively quickly. However, formal action will be commenced when a breach of planning control unacceptably harms public interest or the unauthorised use of land or buildings merits protection in the public interest.

Commencement of enforcement action will;

- Always be commensurate with the breach of planning control to which it relates.
- Will not normally be taken to remedy trivial or technical breaches of control which are considered by the Council to cause no significant or detrimental harm

Formal action will not normally be progressed whilst a planning application is being determined by the Council or where a “live” appeal has been submitted to the planning inspectorate.

If an enforcement case is opened our aim is to resolve within 8 weeks upon registration of a valid complaint. Resolving a case will result in one of the following outcomes:

- No further action
- Inviting a retrospective planning application to be submitted
- Resolution for enforcement notices to be issued.

In all cases a report will be produced which explains the reasons for the proposed course of action. Please note if formal action is necessary, due to the complexities of planning law, it can take several months, and in complex cases years, to satisfactorily resolve problems.

WHAT CAN BE DONE ABOUT UNTIDY LAND OR SITES?

From a community perspective, tidy gardens, land or buildings mean an area looks well cared for making people feel safe in that neighbourhood. If untidy sites are left, they become worse and the area starts to feel neglected. Untidy sites are rarely dangerous to public health but they will be an eyesore, which means it is detrimental to the local amenity.

The council can serve an ‘amenity’ notice on the owner of any land or building which is in an unreasonably untidy condition and we consider has an adverse affect on the amenity of the area. This is done under section 215 of the Town and Country Planning Act 1990 (as amended).

WILL DETAILS BE KEPT CONFIDENTIAL?

The identity of persons reporting suspected breaches of planning control will be treated as confidential unless the complainant authorises otherwise, or the complainant is required to give evidence at a public hearing, inquiry or court case. The right to privacy under the Human Rights Act 1998 enhances and strengthens the Councils Policy on the protection of complainants.

The Freedom of Information Act 2000 does not override this right to confidentiality and therefore the identity of complainants will not be revealed to third parties, unless any of the circumstances above apply. Where the success of an appeal or prosecution is dependent on evidence being provided by the person who reported the breach of planning control, the Council will discuss with the complainant whether they are willing to relinquish their confidentiality and provide the required evidence before proceeding with formal enforcement action or a prosecution.

WHAT IF THE COMPLAINT IS ABOUT ME?

We recognise that some breaches of the planning rules are genuine mistakes, for example where the need for planning permission was not established before commencement of work. However there are also cases where planning laws or the terms of a planning permission have been significantly contravened or where the unauthorised work is intentional in which will be a material consideration weighed up in the determination of any successive planning application or appeal. As part of any discussion during the investigation the council;

- may allow an opportunity to apply for retrospective planning permission where for example the development could be acceptable having regard to policy and other material planning considerations;
- will seek resolution, e.g. by stopping the use, removing or reducing the size of an unauthorised building;
- will consider taking formal action to resolve the matter

HOW DO YOU ENSURE DEVELOPMENT IS CARRIED OUT IN ACCORDANCE WITH APPROVED PLANS?

Monitoring is an important function in the Council's Development Management role. The Council receives in excess of 4000 applications a year and will not systematically monitor all developments. We rely on others to report suspected breaches of planning control to us.

It is the responsibility of the applicant / owner to ensure that the development is carried out in accordance with approved plans and that any amendments are sought before they take place. Making changes to approved plans without permission can invalidate a planning permission. Partnerships exist between Development Management and other council functions (Building Control, Licensing, Public Protection etc.), which can highlight amendments that have not been approved.