



**Northumberland**  
County Council



# **Strategy for the Monitoring and Enforcement of Planning Control**

**February 2023**

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## Foreword

How the Council investigates, controls or “enforces” breaches of planning control is often controversial.

Some people want immediate, punitive action. Others may feel that the Council should not interfere with landowners, homeowners or businesses in how they use buildings/land they own.

We always investigate any alleged breaches of planning control, and we will take enforcement action where it is appropriate and in the public interest. The aim of the planning enforcement service is to remedy harm being caused, not take action to “punish”.

Sometimes breaches of planning control are committed by people in full knowledge of the planning requirements, and these individuals need to accept the potential consequences. In other situations, works may have been carried out as a result of a genuine mistake.

We need to be aware that carrying out works without first obtaining planning permission is not in itself a criminal offence. The planning system allows for the submission of a planning application for development already undertaken.

The Council’s decision whether to take enforcement action must be well founded and will include a thorough assessment of the relevant facts in each case. We will always try to negotiate the resolution of problems first but will not shy away from using statutory powers if required and this may ultimately result in direct action to remove unauthorised structures.

This new Enforcement Strategy is aimed at setting out more clearly how the Council will approach making decisions about planning enforcement. Part of this is about how the Council makes best use of its resources; we want to use our enforcement capacity to focus on solving real problems, not getting drawn into issues such as long running neighbour disputes.

The Council’s enforcement powers will not be used against a breach of planning control which causes no harm to public amenity in the area. Formal Enforcement action is always discretionary and should be used in the public interest. The Council will decide on the seriousness of the breach, how much harm has occurred and the practicality of enforcement before taking any action.

Our website contains more information about planning enforcement, and I would welcome your views on this new Enforcement Strategy.

**Rob Murfin**  
**Director of Planning and Housing**

# 1. Introduction – what is planning enforcement?

This document sets out the context for the operation of the Planning Enforcement function within Northumberland County Council. It sets out the objectives and procedures that we will take when using the wide range of legislative powers available to us in relation to planning matters.

Development Management provides a dedicated specialist Planning Enforcement Team which plays an essential role in delivering an effective and efficient planning service.

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. Effective enforcement is important to ensure that unauthorised development is dealt with in a way that balances the protection of the environment and the amenity of neighbours whilst at the same time ensuring that owners enjoy reasonable use of their property.

Planning permission is usually required for changes to the use of a building or land, altering or enlarging a building and displaying advertisements. However, some changes can be carried out without the need for a formal planning application, this is referred to as permitted development. Permitted development is not subject to enforcement action even in instances where development is considered to cause harm. Further information on permitted development is available online from the [Planning Portal](http://www.planningportal.co.uk) [www.planningportal.co.uk](http://www.planningportal.co.uk) and [GOV.UK](http://www.gov.uk) [www.gov.uk](http://www.gov.uk).

In some areas of Northumberland the permitted development rights have been removed by an article 4 direction. An article 4 direction removes the permitted development rights on a particular area or a particular type of development in that area. Article 4 directions are used to control works that could threaten the character of an area of importance, such as a conservation area. If there is an article 4 direction on land/property you wish to develop you may need to apply for planning permission.

It is crucial to note that enforcement action is a discretionary power and is very complex. It should be noted that the legal processes involved are often lengthy and complicated and an 'instant response' or resolution cannot be guaranteed. This means that the impacts of any unauthorised development are assessed at an early stage and a case prioritised accordingly. The Council's focus will be on those cases where there is significant impact on the amenity of an area.

The response to a breach of planning control should be proportionate to the harm it causes. It is never expedient, or a wise use of limited public resources, to pursue enforcement action against a development that would have been granted planning permission. Enforcement action should not be viewed as punishment, but what needs to be done to protect public amenity. The main aim is to resolve or regularise a potential planning breach. A planning application is the most appropriate way to consider the merits of development and to allow affected neighbours and other interested parties to have their say. It is therefore logical to apply the same approach to development already carried out, and for the Council to encourage retrospective planning applications where appropriate. The exception is where the Council considers there is no real prospect of planning permission being granted. In these cases, we will proceed with enforcement action as a matter of course. However, the developer still has the right to apply for planning permission and if they do, the Council must deal with the application fairly before

proceeding with enforcement action as necessary. In all cases, the Council will assess a planning application against the development plan and whether it is acceptable in planning terms and not because the application is retrospective.

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## 2. What is a breach of planning control?

In most situations informal action will initially be undertaken to resolve an alleged breach of planning control and before any formal action is undertaken consideration will be made as to the expected results from the action in relation to the level of harm that is being caused and whether it is expedient or reasonable to undertake such a course of action.

The Town and Country Planning Act 1990 defines a breach of planning control as “the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.”

The following are examples of matters that can be enforced by the Council under planning legislation:

- Unauthorised erection of a building
- Unauthorised material change of use of land or building
- Development not in accordance with the approved plans of a planning permission
- Non-compliance with conditions attached to a planning permission
- Unauthorised works to trees protected by a Tree Preservation Order or trees in a Conservation Area
- Land or buildings in a poor condition affecting the amenity of the surrounding area
- Carrying out building work or alterations to Listed Buildings without Listed Building Consent
- The display of adverts or signs without advertisement consent

The Planning Enforcement Team is not able to assist in matters which are covered by other legislation, for example, complaints in relation to public health matters, or the improper use of the highway. Any complaints regarding these issues should be directed onto the relevant department. Other issues such as breaches of covenants or ownership disputes will not be investigated as these are civil issues.

In some cases, a potential breach of planning control may overlap with other legislation. Unauthorised development and planning conditions often cross over into other areas of legislation which fall outside of the Planning Enforcement Team’s remit to enforce. In these instances, it may be more appropriate to redirect these reported breaches to other teams within the Council or other government bodies, or to work cross-departmentally, to resolve these breaches.

The Planning Enforcement Team works within Government guidelines and in accordance with Council policy. We must decide whether the breach affects amenity and whether it is in the public interest to take formal action. The decision to take formal action is at the Council’s discretion. Enforcement action will not be taken just because development has started without planning permission and it will not be taken against a minor breach that causes no real harm.

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### 3. What is not a breach of planning control

- Land ownership/boundary disputes
- Neighbour disputes/vexatious complaints
- Breaches of a covenant attached to title deeds/bylaws
- Noise/odour issues
- Obstruction of the highway or rights of way
- Works on the highway
- Parking vehicles on the highway/grass verge or residential street
- Breaches of conditions outside of the red line boundary (planning conditions relate to works within the red line boundary only).
- “Informatives” on planning decision notices
- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity or character.
- Clearing land of undergrowth, bushes and trees provided they are not subject to protection or a planning condition
- Parking of a caravan within the curtilage of a residential property providing that it is stored, or used as an extra bedroom, and not used as a separate, self-contained residential unit.
- Where development is 'permitted development'

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### 4. Reporting a breach of planning control

Where appropriate, please speak to your neighbour first before contacting the Council. You may find that your neighbour has already found out if planning permission is required. Involving the Council can often cause friction between neighbours. A friendly conversation with your neighbour could result in them making minor alterations. This could overcome your concerns without causing any unnecessary upset.

We rely on your local knowledge to find out about planning breaches. When you report an alleged breach of planning control, it is important to supply as much information as possible, to assist with the investigation, ideally in writing. This will help provide an early resolution to the case. You should supply the following information:

- your name, address, telephone number and e-mail address;
- the exact address and location of the site;
- names and addresses of any person involved (if known);
- the nature of the complaint – what is the breach?
- when the activities started and whether they are continuing; and
- whether you wish to be kept informed of the progress of your complaint.

The simplest way is to [report a breach of planning control using our online form](#). Alternatively, you can report by email or in writing using the contact details at the end of this document.

Reports received by telephone are accepted, although to ensure that the complaint is fully understood, callers will be requested to follow up the initial report in writing as outlined above. If the above information is not provided the Council will not register your complaint and if the matter being reported is a minor breach of planning control the Council may decline to investigate the matter further.

Although anonymous complaints will be investigated an update on the investigation cannot be provided to the person who reported the alleged breach of planning control therefore it is important to note that all personal details provided are confidential and will not be revealed to any third party or to the person responsible for the alleged breach. Your details will only be used by the Planning Enforcement Team to contact you for further details or for clarification on a particular matter. Any information provided by members of the public is treated in confidence unless it is necessary to disclose this information at an appeal or in court when it will be made public. In such cases, the individual's consent will be sought prior to this information being made public. Such occasions are rare, and involvement is on a voluntary basis.

Please note that the Enforcement Team do receive requests for information on enforcement cases under the Freedom of Information Act 2000. Communication that you have submitted may be released however all personal information will be redacted including any information that would identify the author. Any requests under this Act should be sent to: [FOI@ig.northumberland.gov.uk](mailto:FOI@ig.northumberland.gov.uk).

There are a high number of investigations underway which is increasing every year; therefore, the planning enforcement officers are under extreme pressure to resolve each case. Requests to meet with the planning enforcement officer to discuss a breach is not always possible. The planning enforcement officer will provide an update on the progress of the case when they are able to do so. Repeat emails and phone calls can delay the investigation therefore you should wait for the planning enforcement officer to contact you. Depending on the nature of the investigation it can take a long time to resolve. Please note if formal action is necessary, due to the complexities of planning control, it can take several months, and in complex cases years, to satisfactorily resolve problems.

Neighbour disputes or vexatious complaints will not be investigated. A recent High Court judge ruled 'Local authorities are not required to respond to the full extent of the law to every breach of planning control and, in deciding what action to take, are entitled to have regard to their limited resources both in financial and manpower terms' in a dispute between two neighbours. (*Hemms v Bath and North East Somerset Council*).

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## **5. Zero tolerance policy**

A zero-tolerance policy towards violence and aggression towards Council staff is expected throughout public services. No member of staff should be subjected to violent, threatening or abusive behaviour. Employees have the right to work and carry out their duties in an environment free from violence, threatening or abusive behaviour.

## 6. What happens next?

Upon registration of the complaint the case will be allocated to a Planning Enforcement Officer who will undertake an initial investigation. Once a breach of planning control is confirmed, you might be asked to make a note of your observations and keep a log of any relevant activities. In particular; the activities being carried out, the date and time of the activity, the name, address and contact details of those involved and the registration details of any vehicles.

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## 7. Case priority

On being notified of a complaint the Planning Enforcement Officer will give the complaint a priority level. Priority will be given to cases where there is the possibility of the greatest harm being caused.

The following priority system will apply to each case received according to the following:

- **Level 1** – cases where there is immediate danger to the public and where unauthorised work is being undertaken which is non-reversible such as unauthorised works to listed buildings or unauthorised works to protected trees. For these cases an initial site visit will be carried out within **1 working day** from the receipt of the complaint.
- **Level 2** – All other cases will fall into this category. For these cases a site visit will be carried out within **20 working days**.

We will seek to acknowledge all reports of breach of planning control within 10 working days. In most cases this will be in writing (usually by email) or by telephone if no postal or email address is provided.

The acknowledgement will describe the nature of the breach, the name and contact details of the Planning Enforcement Officer dealing with the case, the allocated priority level and the timescale in which the complainant should expect to receive a response.

Please note that the investigation into an alleged breach of planning control can be complicated, and, in some cases, further updates will need to be provided as the case progresses and until the matter is resolved.

We aim to update the person reporting the alleged breach of planning control within 28 days from the date the complaint being received to inform them of the findings of the site visit and what we plan to do next.

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## 8. Performance indicators

Although there are no mandatory targets concerning the investigation of alleged breaches of planning control, the Council has its own performance targets to monitor the progress of planning enforcement cases. This includes targets to acknowledge the complaint within **10 working days** of receipt. We will aim to update complainants on the case within 28 days



from the date of the initial complaint. This initial update will inform the complainant if there is a breach of planning control. If no breach is found the case will be closed. If there is a breach the Council will commence a full investigation which may lead to planning enforcement action. This part of the investigation is confidential, and we are limited as to how much information we can disclose to the complainant or other interested parties. If an enforcement investigation is ongoing after 13 weeks from the breach being reported the case officer will make a decision on how the case will progress, this is referred to as “an agreed course of action”.

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## 9. Reactive work

Following the receipt of a complaint regarding an alleging breach in planning control an initial assessment is carried out to determine if a site visit is required. An example of a case where a site visit is not needed is where planning permission has already been granted or a retrospective application is in the process of being determined. In most cases a site visit is required.

From the evidence gathered during the site visit an assessment will be made as to whether planning permission is required for the works. Cases will fall into one of the following groups:

- **No breach** - In this case if no breach of planning control has occurred or the breach is of such a minor nature that it is not to be investigated further. In this situation the case will be closed, and the complainant will be informed of the decision.
- **A potential breach has occurred** - In many cases it is not possible to come to an immediate conclusion as to whether a breach of planning control has occurred. This is particularly evident in relation to complaints regarding a material change of use. In these cases, it is often necessary to carry out additional site visits over a period of time before a decision can be made. It will be explained to the complainant that further investigations and monitoring is required.
- **Breach identified but works are likely to be granted approval** - In this case the Planning Enforcement Officer will request that a retrospective application is submitted, this allows for a full formal assessment to be carried out on the development and the statutory consultation period will apply. The complainant will be advised of the outcome.
- **Breach identified and is not acceptable** - In cases where it is considered that planning permission is unlikely to be granted, we will ask for the use to cease or the unauthorised development to be removed. A suitable period will be given depending on what needs to be done.
- **Immunity from enforcement action** – In this case a breach of planning control has been identified but has been substantially completed for four years or more. In the case of an unauthorised change of use from a building to a dwelling-house this must have been in place for four years or more. In the case of an unauthorised change of use to a building or piece of land this must have been in place for ten years or more. In the case of a breach of condition the breach must have been in

place for ten years or more. In these cases, officers will request that an application for a Certificate of Lawfulness is submitted to the Council.

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## 10. Types of planning breaches

### (i) Development carried out not in accordance with the approved plans

Monitoring is an important function in the Council's Development Management role. The Council receives in excess of 6,000 applications a year and will not systematically monitor all developments. We rely on others to report suspected breaches of planning control to the Council. 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.

If you are reporting an alleged breach of planning control regarding development which already has planning permission approved and you believe the development is not in accordance with the approved plans or is in breach of a particular condition you must provide full details of what you believe has been breached and outline the particular plan or condition which has not been adhered to, *such as, the first-floor window on the North elevation is not obscurely glazed or provide the condition number and application reference*. If full details of the alleged breach are not submitted, we will not investigate until those details are provided. If you do not agree with the approval of a specific development, you cannot use planning enforcement to delay development or to submit objections.

### (ii) High Hedges

They are dealt with under Part 8 of the Anti-Social Behaviour Act 2003. The Council can deal with formal complaints about an evergreen hedge provided the complainant has tried and exhausted all other avenues for resolving their hedge dispute. The current fee for providing this service is £400. A fee is charged as the Government's view is that high hedge complaints are essentially a private matter. The role of the Council is not to mediate or negotiate between the complainant and the hedge owner but to adjudicate on whether the hedge is adversely affecting the complainant's reasonable enjoyment of their property. [View the high hedge complaint form and guidance notes online.](#)

### (iii) Advertisements

We recognise that controls over advertisements are not widely understood by the public. Through publicity and accurate guidance, our aim is to enable businesses, organisations and individuals to comply with advertisement controls so they can promote their business lawfully.

The display of advertisements is subject to a separate consent process within the planning system. This is set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ("the Regulations").

Many advertisements, within specified limits, can be displayed without the need to apply for formal advertisement consent. [View Outdoor Advertisements and Signs: A Guide for](#)

[Advertisers online](#). All adverts displayed on a listed building will require Listed Building Consent. If the advert is in a conservation area certain limitations will apply.

The proliferation of adverts can make areas unsightly, and they can cause a distraction to drivers. If unauthorised signs are not enforced this can escalate with the display of other unauthorised adverts appearing. We understand that advertising is essential when operating a business and we are happy to work with businesses in a way that will meet their needs and comply with the Regulations.

It is an offence to display an advertisement in contravention of the Regulations. Our approach to enforcing unauthorised advertisements is based on a proportionate response to the harm to public safety and/or amenity caused by its display.

When we identify a breach of advertisement control, we will normally give the person displaying the advertisement or the landowner the opportunity to remedy the situation voluntarily. We will offer advice on the options, including removing or altering the advertisement or making an application for consent to display it, in order to comply with the Regulations.

We will take action in respect of breaches of advertisement control which cause identifiable harm to public safety or amenity. It is not in the public interest for us to take action against a breach of advertisement control which causes no harm.

Our priorities for taking action against unauthorised advertisements are those which:

- pose a serious risk to public safety.
- cause identifiable harm to the amenity.
- cause identifiable harm to the setting of listed buildings or conservation areas.

Where unauthorised advertisements/signage is displayed on Highways land, the Council has delegated powers to remove it without prior warning and dispose of it. Where this display is widespread and/or those doing so are persistent offenders then the Council will consider prosecution under s224 of the Town and Country Planning Act 1990 (as amended), if those responsible do not remove (on request) within a given timescale. More allowance will be given to non-commercial advertisements that promote cultural, charitable or other events benefiting the County, but this does not preclude the action outlined above where merited. On private land the Council can require unauthorised advertisements/signage to be removed within 48 hours depending on the format of the advertisement/signage.

We will always consider all our options for action, with prosecution being more likely for repeat offenders or where an offender is unresponsive to all other attempts to resolve the breach.

#### **(iv) Untidy land (s215)**

From a community perspective, tidy gardens, land or buildings means 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 have powers under s215 of the Town and Country Planning Act 1990 (as amended), to tackle untidy land or buildings where it adversely affects the

appearance of the neighbourhood or has any other demonstrable impact on neighbours. Further information can be found on the GOV.UK website in the [Town and Country Planning Act 1990 Section 215 Best Practice Guidance](#).

As a starting point, so we can make an assessment, we need you to provide us with the following information:

- Address / location of the land or property
- Is this highways, public, or privately owned land?
- Describe the problem.
- How is this affecting you?
- Is this visible anywhere else (how / where can we view this from)
- Photos, including those showing the effect on the wider street scene.
- Have you discussed this with the landowner and if so, what was the response?

#### **(v) Satellite dishes**

Satellite dishes or antennae can be displayed without the need to submit a planning application, subject to various size limitations or conditions. Satellite dishes or antennae will not normally be permitted on Listed Buildings or on the front elevation or roofs of buildings within Conservation areas. In other areas an assessment of the visual impact of the satellite dishes or antennae in the wider street scene will be made.

In some areas of Northumberland, the permitted development rights for satellite dishes have been removed by an article 4 direction. Planning permission will need to be sought prior to the satellite dish being installed.

#### **(vi) Deliveries/hours of operation at development sites**

In order to protect the residents living adjacent or close to development the Council often place planning conditions on the planning permission, restricting the times they should work, or accept deliveries. These typically (but not always) allow works and deliveries to take place only between 8am and 6pm Monday to Fridays, 8am to 1pm Saturdays and not at all on Sundays or Bank Holidays, unless there are exceptional circumstances. Similar planning conditions apply to businesses in sensitive locations where activities are likely to take place during 'unsociable hours' and adversely affect the nearby residents.

If you believe such planning conditions are being breached, please advise us on the following:

- Check the permitted hours of operation by searching the relevant planning permission on [the Council's online Public Access Planning Register](#).
- If hours are not controlled through planning, then you should consider reporting this as an environmental health noise complaint.
- Which condition is being breached and what are the activities taking place;
- Who is responsible for the breach;
- How is it affecting you;
- How often is the breach taking place, you might be asked to keep a log of the activities taking place so the Council can determine if there is a planning breach;

- Have you discussed this with the developer/business and if so, what was the response?

#### **(vii) Operating a business from home**

Operating a business from home does not always require planning permission. The change of use must be 'material' for it to be considered a breach in planning control. In assessing whether a business is operating, and if so whether it is a 'material' change of the use of the land, the Council will assess its nature (the operational characteristics of the business) and scale (size and relationship of business to main use of land). For example, running a taxi from a property where the driver picks up the customer from home, and operates within daylight hours, is very different from a residential property running several taxis 24 hours a day, with a 'waiting facility' for customers.

In order to help with this assessment, we need you to provide the following:

- What is the name of the business?
- What is the nature of the business?
- Have there been any physical changes to the building/land in connection with the business?
- When does it operate?
- Does this business employ any staff (at the property), and if so, how many?
- Are there any deliveries taken to/from the property, and if so when, and how often?
- Do any customers come to the property and if so when, and how often?
- How does the operation of the business affect you?

The Council will cross reference the information you provide against other sources and will usually carry out monitoring visits to determine whether there is a material change of use.

#### **(viii) Car sales/repairs from a dwelling**

Carrying out car sales/repairs is not always a breach of planning control it does depend on whether the overall use is material. For example, repairing vehicles for friends and family members is very different from carrying out repair works to several vehicles every month for paying customers from a residential property. We will also consider any physical changes to the use of the land (e.g., adapted garage) which will provide an indication of the nature and scale of operations.

In order to help with this assessment, we need you to provide the following:

- How many vehicles per day/week/month are worked on?
- Does the property have a garage used in connection with the alleged breach?
- Who brings the vehicles to the property?
- Does this business employ any staff, if so, how many?
- Do any customers come to the property and if so when, and how regularly?
- How does the operation of the business affect you.

The Council will cross reference the information you provide against other sources and will usually carry out monitoring visits to determine whether there is a material change of use.

### **(ix) Extensions/outbuildings (householder)**

To extend a property or to erect an outbuilding does not always require planning permission, as some works can be carried out under permitted development. These are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (also referred to as the “GPDO”). A useful interactive guide to planning requirements is set out on the Government’s planning portal. Please note the GPDO can be complicated and if you are unsure whether your proposed development needs planning permission you should seek pre-application advice prior to starting the development.

Works to listed buildings or buildings covered by an Article 4 Direction would however need planning permission (and listed building consent) regardless.

Before reporting an alleged breach of planning control, please check whether planning permission has been granted by looking on Public Access on our website. If permission has not been granted, then please provide us with the following:

- Address/location
- What has been built (include estimated size and material).
- How long has it been in place?
- How is it affecting you?
- Is it visible from anywhere else (how/where can we view this from)
- Photos

### **(x) Conversion of house into HMO**

Sub-dividing a single dwelling into self-contained units (e.g., flats) or converting it into a house of multiple occupation (HMO) usually requires planning permission. In planning terms an HMO is a home where more than six nonrelated persons live separately within a home.

Please check whether planning permission has been granted for the change of use by looking on Public Access. If permission has not been granted, please provide us with the following:

- Address/location
- How many people are living at the property?
- Are they living as a single household, or is the property subdivided into flats (how many)?
- How long has this been taking place?
- How is this affecting you?

### **(xi) Fences/gates/walls/means of enclosure**

To erect a fence, wall or other means of enclosure it does not always require planning permission, as some works can be carried out under permitted development. These are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. Usually this allows fences and walls to be built (without planning permission) up to 1m in height if they are adjacent to a highway used by vehicles or 2m in height in any other case.

If the means of enclosure is in a Conservation Area the limitations above apply however planning permission may be required to remove/demolish the wall, gate or fence.

Works within the curtilage of listed buildings or those covered by an Article 4 Direction would however need planning permission regardless.

Please check whether planning permission has been granted for the fence, wall or gates by looking on Public Access. If permission has not been granted, then please provide us with the following:

- Address/location
- The height of the wall, fence or gate
- How long has it been in place?
- How is it affecting you?
- Is this affecting visibility for road users?
- Photos

#### **(xii) Works or alterations to a listed building**

Almost all works to a listed building requires listed building consent and, in some cases, planning permission would also be required. Any works carried out on a listed building without consent is a criminal offence under Section 9 of the Planning (Listed Building and Conservation Areas) Act 1990. If you suspect that works are being undertaken on a listed building without consent, then we need you to contact us as soon as possible and provide the following:

- Address/location of the property
- Description of the works carried out
- Who is carrying out the works

#### **(xiii) Caravans**

The siting of a caravan within the grounds of a dwelling does not require planning permission provided a 'material' change of use of the land has not occurred. If a caravan is used in connection with the main dwelling, provided the occupants continue to use the main facilities of the house, then a planning application is not needed. However, for example a caravan is used as business premises, separately rented or used as an independent dwelling, with no relation to the main house, then an unauthorised 'material change of use' has occurred, for which planning permission will be required. In order to help with this assessment, we need you to provide the following:

- Is anyone living in the caravan?
- Is the occupant using the main facilities of the main property (e.g., kitchen/bathroom)?
- Are they related to the people occupying the main house?
- How is this affecting you?
- Photos

#### **(xiv) Holiday lets**

When it comes to letting your house as a holiday home, you may require planning permission, depending on several factors. If your house is classed as a C3 use, it means that it's a 'dwelling house'.

If you rent-out your property as a holiday home the use must not change.

Class C3 covers the following:

- Use by a single person or family.
- Up to six people living together as a single household.
- If the use of your property as a holiday let does not meet the criteria above, you may need to apply for planning permission.

In order to help with this assessment, we need you to provide the following:

- Is there a website advertising the holiday home?
- How it is operating, i.e., are any meals provided?
- How many people does it cater for?
- Any photographic evidence
- A log of comings and goings including dates and times.

In some areas of Northumberland there are restrictions for using your home as a holiday-let and you may need to apply for planning permission. Check any previous planning applications on your property to ensure there are no planning conditions restricting the use of your home as a holiday-let.

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## **11. Expediency**

Addressing breaches of planning control without formal planning enforcement action can often be the quickest and most cost-effective way of achieving a satisfactory and lasting remedy. For example, a breach of planning 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. Furthermore, in some instances formal planning enforcement action may not be appropriate.

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



Reasons for not taking enforcement action might include:

- The age of the breach
- Planning permission would likely be supported if applied for (in this case an application will be requested and if not received an expediency report will be written explaining the reasons for not taking enforcement action).
- The level to which the breach has been evidenced is not sufficient to demonstrate a significant enough degree of harm to warrant further action.
- Benefits outweigh the harm
- It is 'De Minimus' Sometimes a breach in planning regulations may be either very small in dimension (e.g. a building constructed marginally higher than the permitted height) and/or its impact is negligible (e.g. children's nursery with permission for 40 places operating 41 places). If this does not unacceptably affect public amenity and or the built or historic environment, then it would not be reasonable or proportionate for the council to take action.

When a case is to be closed because 'it is not expedient to take enforcement action' a report will be drafted by the enforcement officer to be signed off by the Principal Enforcement Officer. In complex or controversial cases this will be signed off by the Development Service Manager and where appropriate, will be agreed (i.e. to take or not to take action) with the Planning Chair and local County Council Member for the area.

Formal enforcement action, through the serving of Notices, will not be taken where the sole reason for doing so is to regularise a breach of planning control. The Council cannot initiate enforcement action in relation to developments which are unauthorised but which in principle are considered acceptable when viewed against both national and local planning policy. The Council will invite the submission of a retrospective application but if it is not submitted enforcement action will not be taken. Associated with all enforcement action are cost implications on the Council, therefore the Council needs to ensure that enforcement action is taken against the breach which are causing the most planning harm. Taking enforcement action on all breaches of planning control will lead to unnecessary lengthy appeals and the award of costs against the Council.

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## 12. Planning enforcement powers

When a breach of planning control occurs the level of harm is assessed to determine if formal planning enforcement action is taken. Harm can be caused through several factors including:

- Adverse impact on visual amenity due to poor design or inappropriate materials;
- Loss of protected trees or damage to listed buildings;
- Adverse impact on residential amenity;
- Noise, nuisance or disturbance from the operation of a business.
- Untidy land and buildings in a poor condition.

It is considered inappropriate to take formal planning enforcement action against a breach of planning control which causes no harm to the local amenity.

If a retrospective application is submitted to regularise a breach of planning control, planning enforcement action is put on hold until the retrospective planning application is determined.

Where further information is required to determine the facts, the Council has the following investigative powers:

- **Rights of Entry** (Section 196A of Town and Country Planning Act 1990, as amended) allows the Planning Enforcement Officer to enter land where a breach of planning control is suspected, without the owner's permission or prior arrangement. The exception is for the inside of domestic properties, where 24 hours prior notice must be given. It will be considered an offence if anyone wilfully obstructs any person entering the land for the purpose of a planning investigation. If immediate access is required permission may be given by court injunction
- **S330 Notice** (of Town and Country Planning Act 1990, as amended) is used to obtain information on the ownership and activities taking place. It usually has a 21-day compliance period and non-compliance is an offence.
- **Planning Contravention Notice** (Section 171C of Town and Country Planning Act 1990, as amended) is used to secure information on the ownership of land and the activities taking place. Non-compliance with the requirement of the notice is an offence.
- **PACE (Police and Criminal Evidence Act 1984) interview** – for serious allegations, where an offence has or is suspected to have taken place, an interview under formal caution will normally be undertaken.

If the Council has not been successful and negotiation has failed there are several powers available, these are:

- **Breach of Condition Notice** (Section 187A of Town and Country Planning Act 1990, as amended) – can be served where there has been a failure to comply with a condition attached to a grant of planning permission. There is no appeal process but usually a minimum of 28 days is given for compliance. The notice should specify the steps to be taken and non-compliance is an offence.
- **Enforcement Notice** (Section 172 of Town and Country Planning Act 1990, as amended) – this is served where a breach of planning control has caused harm to the environment or local amenity, and it is considered expedient to take formal action. The notice is served on landowners and other interested parties and comes into effect 28 days after it is served. There is a right of appeal within this time although if one is not lodged the remedial works set out in the notice must be undertaken within the required timescale. Failure to comply is an offence.
- **Stop Notice** (Section 183 of Town and Country Planning Act 1990, as amended) – this can only be issued when an enforcement notice has been served and it is considered that the breach needs to cease before the expiry of the time for compliance. It can take effect immediately but normally after 3 days and failure to comply is an offence. If an appeal against the link enforcement notice is allowed

there can be costs implications due to loss of income etc caused by the service of the stop notice.

- **Temporary Stop Notice** (Section 171E of Town and Country Planning Act 1990, as amended) – this is served when urgent action to stop a breach of planning control occurring/continuing is required. It takes immediate effect and is only valid for a maximum of 28 days, but this quickly avoids the problem continuing and gives the opportunity for another form of notice to be served.
- **Section 215 Notice** (of Town and Country Planning Act 1990, as amended) – this is served on the owner or occupier of land the condition of which is affecting the public amenity of the area. It sets out the works required to make the land/building acceptable and a timescale for undertaking the works. An appeal will be heard in the Magistrates Court. If the notice is not complied with this is an offence and the works can be done in default with a charge held against the site.
- **Section 225 Notification** (of Town and Country Planning Act 1990, as amended) – Removal or obliteration of posters or placards. Notification of the requirement for removal of posters and placards can be given under section 225 of the Town and Country Planning Act and if it is not complied with within the required timescale, that could only be a matter of days, the offending sign could be removed
- **High Hedge Remedial Notice** (Part 8 of the Anti-social Behaviour Act 2003) – this notice can be served on the owner or occupier of the land where the high hedge is located if it is adversely affecting the reasonable enjoyment of a neighbour's home and garden. It sets out what is required to be done to the hedge and a timescale for compliance. Failure to undertake the required works is an offence.
- **Listed Building Enforcement Notice** (Section 178 of Town and Country Planning Act 1990, as amended) – this should be served when the demolition of a listed building or works that affect its character have been undertaken without the benefit of listed building consent or contrary to a condition attached to a listed building consent. Unauthorised works to a Listed Building is an offence and can lead to prosecution without the service of an enforcement notice.
- **Completion Notice** - Under section 94 of the Town and Country Planning Act 1990, a local planning authority may serve a completion notice when development has been commenced in accordance with the time limit imposed by condition, but that period has elapsed without the development having been completed and the local planning authority believe the development will not be completed within a reasonable period.
- **Injunction** – (Section 187B of Town and Country Planning Act 1990, as amended) this may be served in the Courts to restrain any actual or anticipated breach of control. It can be sought at any time during enforcement action but usually when an enforcement notice is being ignored. Failure to comply leads to contempt of court and can lead to imprisonment.
- **Direct Action** – (Section 178 of Town and Country Planning Act 1990, as amended) is when the Council goes on to the land where the breach is occurring and undertakes remedial work with the costs recovered from those responsible for the breach. This can be used with regard to unauthorised adverts but otherwise is

normally only used in exceptional circumstances where no other course of action has been successful.

If an appeal is submitted against an Enforcement Notice, the timeframe set out for compliance in the Notice will be put on hold until the appeal is determined. If the appeal is dismissed the timescales will start from the date of the appeal decision.

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### **13. Consequences of non-compliance with a Notice**

Where the requirements of a Notice have not been fully complied with, in the timescales given, (and unless successfully appealed against) those responsible for the breach will be committing an offence. Compliance with an Enforcement Notice will not discharge it; its provisions will remain in force and will be valid should the unauthorised use or specified development re-occur. Notices will be registered against the land and will be identified as part of any 'land search'. The Council has powers to take direct action to address a breach in planning control, in the following circumstances:

- For serious breaches requiring immediate action, where the landowner or other relevant party refuses to undertake emergency works (e.g., works to preserve a listed building)
- Direct action to remove unauthorised advertisements and signage
- Where a Notice has not been complied with and action is appropriate and necessary. Taking direct action does not preclude the Council from prosecuting those responsible, where it is appropriate to do so. Works may be undertaken by officers or specialised contractors, according to the nature of the works, and commensurate with the budget available. Those responsible for the breach will be invoiced and recovery proceedings undertaken where necessary. Officer time will be included within any costs calculation, based on a 'charge out rate' provided by the Council's Finance team. Until paid, the costs will be placed as a charge on the land and will be subject to inflation.

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### **14. Prosecution**

There is a right of appeal to some of the notices listed above, when an appeal is in progress the requirements of the notice are put on hold until a decision is made. Failure to comply with a notice is an offence and prosecution may be pursued where the council has sufficient, admissible and reliable evidence that the offence has been committed and there is a realistic prospect of a conviction. If enforcement is going to be effective this course of action must be pursued when appropriate. To determine whether prosecution is appropriate the Council will assess the case in accordance with the tests set out in the Code for Crown Prosecutors. Prosecution will be considered even when the requisite works, or the breach is removed prior to court action. Costs will be sought where successful prosecutions are brought, or where the Council considers unnecessary appeals have been made. Where a breach in planning control results in significant financial or material gain, the Council will consider recovery action under the Proceeds of Crime Act, in conjunction with the planning prosecution.

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## 15. Looking to the future

The Levelling Up and Regeneration Bill proposes several changes to planning enforcement to give enforcement officers more scope and power in dealing with breaches of planning control. These include:

- Extending the period for taking enforcement action to ten years in all cases and by removing the four-year rule associated with residential.
- Introducing Enforcement Warning Notices – this is a tool that is actively used in Wales and has been successful in tackling breaches of planning control without the need of serving a formal enforcement notice.
- Increasing fines associated with certain planning breaches – especially regarding Breach of Condition Notices where only small fines are issued to large development companies. Therefore, by increasing the fines more risk associated with undertaking unauthorised development
- Doubling fees for retrospective planning applications
- Extending the time period for Temporary Stop Notices from 28 to 56 days – giving Local Authorities more time to consider formal enforcement action and to assess expediency.
- Give Local Planning Authorities the power to dismiss certain appeals where the appellant causes undue delay – this should in turn quicken up the process
- The scope for appeals against enforcement notices will be tightened so that there is only one opportunity to obtain planning permission retrospectively.

[View the Levelling Up and Regeneration Bill on the UK Parliament website.](#)

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## 16. The Enforcement Register

The Council is required to have a register available for public inspection that contains copies of all the following type of notices served:

- Enforcement Notices
- Listed Building Enforcement Notice
- Breach of Condition Notices
- Temporary Stop Notices
- Stop Notices.

If you would like to view a specific Notice for a particular address please [search online using our Public Access system](#). The Enforcement register is also available to view via a spreadsheet on request. Please contact the team on the details below if you would like a copy.

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## 17. Contact details

Planning Enforcement

Development Management, Planning & Economy, Northumberland County Council,  
County Hall, Morpeth, Northumberland, NE61 2EF

T: 0345 600 6400 please leave a message, a member of the team will return your call.

E: [planningenforcement@northumberland.gov.uk](mailto:planningenforcement@northumberland.gov.uk)

W: [www.northumberland.gov.uk](http://www.northumberland.gov.uk)

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If you need this information in Large Print, Braille, Audio or in another format or language please contact us:

(Telephone) 0345 600 6400

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