



**Walsall**  
Council

Planning, Environment and Transportation

**Local Planning Enforcement Plan**  
-  
**Residents Guide**

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## **CONTENTS**

- 1.0 WHAT IS PLANNING ENFORCEMENT**
- 2.0 BREACHES OF PLANNING CONTROL**
- 3.0 HOW TO MAKE AN ENFORCEMENT ENQUIRY**
- 4.0 TIMESCALES**
- 5.0 PLANNING ENFORCEMENT OPTIONS**
- 6.0 PLANNING ENFORCEMENT POWERS**
- 7.0 WHAT IF A COMPLAINT IS MADE ABOUT YOUR PROPERTY OR DEVELOPMENT?**
- 8.0 PHYSICAL AND VERBAL ABUSE TOWARDS OFFICERS**
- 9.0 FURTHER INFORMATION**

## 1.0 WHAT IS PLANNING ENFORCEMENT

This is a guide for residents and the local community to greater understand the Planning Enforcement procedures and the approach of the Council to alleged planning breaches.

The planning system operates to regulate development and the use of land. It has regard to the development plan, other material planning considerations and the community interest. Planning enforcement is a technically and legally complex element of the planning system, which means that action is not always straight forward. Whilst the investigation of an enquiry is mandatory, enforcement action is a discretionary power of the Local Planning Authority and not all breaches of planning control result in formal enforcement action.

To ensure that the community can have confidence in the planning system there needs to be effective and proper enforcement of planning controls. Fair and effective planning enforcement is therefore important to protect the quality of life for the people who live and work in Walsall, and the quality of the Boroughs built and natural environment. The Council's focus will be on these cases where the impacts are significant and or irreversible.

## 2.0 BREACHES OF PLANNING CONTROL

### 2.1 What is a breach of planning control?

Breaches of planning control can vary considerably and could involve matters such as the unauthorised erection of a building or extension of a building, a material change of use of land or a building or the display of unauthorised advertisements. The following table gives greater guidance on what is and is not a breach of planning control.

The planning breaches which are underlined in table 1 do carry a criminal liability. Whilst other planning breaches are **not** a criminal offence.

There are time limits as to when enforcement action can be taken. Action has to be instigated within **4 years** in relation to the erection of buildings or the change of use of a building for use as a single dwelling house. In the case of any other breach of planning control, including breach of condition, action must be taken within **10 years**. There is, however, no time limit for the enforcement of breaches in relation to Listed Building legislation.

Table1: What is a breach of planning control?

Breach of planning control	<b>NOT</b> a breach of planning control
<ul style="list-style-type: none"> <li>• <u>Unauthorised works to a Listed Building</u></li> <li>• <u>Unauthorised demolition within a conservation area</u></li> <li>• <u>Unauthorised works to a tree within a conservation area or subject to a preservation order (TPO)</u></li> <li>• <u>Unauthorised advertisements</u></li> <li>• Breaches of planning conditions</li> <li>• Not built in accordance with approved plans</li> <li>• Untidy land affecting the amenity of an area</li> <li>• Unauthorised engineering works, such as alteration to ground levels</li> <li>• Unauthorised siting of a caravan or mobile home used as an independent dwelling house</li> <li>• Unauthorised material changes of use of land or buildings</li> <li>• High Hedges</li> </ul>	<ul style="list-style-type: none"> <li>• Internal works, excluding change of use to a non-listed building</li> <li>• Obstruction of a highway</li> <li>• Parking of vehicles on highway or grass verges</li> <li>• Parking of caravans on residential driveways or with curtilage of a dwelling, where it does not form a separate dwelling</li> <li>• Operation of a business where the residential use remains the main use of the premises</li> <li>• Land ownership or boundary disputes</li> <li>• Covenants contained on property deeds</li> <li>• Works which are 'permitted development' under the Town and Country Planning (General Permitted Development) Order 2015 as amended.</li> <li>• Excepted Advertisements under the Town and Country Planning (control of Advertisements) (England) Regulations 2007 as amended.</li> <li>• Clearing of land and over growth of bushes and non-protected trees.</li> <li>• Dangerous Structures</li> <li>• Noise disturbance and general pollution</li> <li>• Fly Tipping</li> <li>• Business competition</li> <li>• Blocking of a designated right of way</li> <li>• Party Wall Act</li> <li>• Loss of Property Value</li> <li>• Loss of View</li> <li>• Health and Safety</li> <li>• Site security.</li> </ul>

## **3.0 HOW TO MAKE AN ENFORCEMENT COMPLAINT**

### **3.1 Making an enforcement complaint**

It is useful when raising a complaint to include as much detail relating to the breach as possible, including the exact location of the site or property, the nature of the breach and the harm it is causing.

To assist the Council and prevent misunderstandings it is preferred for enquiries to be submitted in writing or online at <https://go.walsall.gov.uk/planningenforcement> or by emailing [enforcementcomplaints@walsall.gov.uk](mailto:enforcementcomplaints@walsall.gov.uk)

The following information is necessary to conduct an enforcement enquiry:

- Your name, address, email and phone number
- Location/address of the complaint, where the planning breach is occurring
- Details of the complaint, including when it started
- Details of the harm that is occurring due to the breach

The fullness of these details is important in enabling officers to prioritise enquiries. In some cases, we may ask you to submit evidence of the breach such as activity logs, photographs, notes of events.

If we do not receive sufficient information about an enquiry, for example the location, then we may not be in the position to accept the enquiry.

### **3.2 Confidentiality**

The name and address of all complainants is kept confidential. We require contact information in order to keep you informed of the process and to contact you to assist use in our investigation. It may be necessary for legal reasons such as Freedom of Information requests that details need to be disclosed, however this information will only be revealed if the information is shown to be in the public interest.

Whilst we do accept anonymous enquiries, these are not priorities. If you feel threatened and therefore unable to provide your details it is recommended to seek support from your Local Councillor who can act on your behalf and protect your anonymity.

### **3.3 Methods of communication**

The Council prefers to use email as this allows for a written log of the steps taken to resolve matters, and allows for information to be fed back without delay.

### 3.4 How enquiries will be dealt with

At all times, staff will follow the principles set out below and will: -

- Act professionally courteously and equitably
- Negotiate a solution to the problem where possible
- Use plain language
- Be available to handle queries during normal office hours
- Keep all personal details confidential, unless court action or the Freedom of Information legislation makes it necessary to release information.
- Discourage retrospective planning applications when there is no prospect of an approval
- Only take formal enforcement action where there is a breach of planning control, and where the action is proportionate and significant benefit is likely to result.

### **4.0 TIMESCALES**

All enquiries will be registered and acknowledged within 5 working days, with the exception of High Priority cases. You will receive confirmation of the enforcement case number and the officer dealing with your enquiry.

Given the large number of enquiries received it is necessary to prioritise cases. Site visits will be undertaken within with 24 hours or 30 days depending on the priority of the enquiry. Table 2 below details the priority bandings.

Following the visit, you will be notified of the course of action that the Local Planning Authority intends to take next.

Table 2: Enforcement Priorities

Priority	Considerations	Target time for visiting	Response time to enquirer
<b>High</b>	<p>Irreversible Harm to The Environment</p> <ul style="list-style-type: none"> <li>• Unauthorised works to a listed building</li> <li>• Irreversible harm to amenity of a Conservation Area</li> <li>• Unauthorised works to trees covered by a Tree Preservation Order or in a conservation area</li> <li>• Works affecting a protected landscape included but not limited to a SAC, SSSI or SLINC</li> </ul>	24 hours	Within 3 working days
<b>Medium</b>	<p>Significant Reversible Harm to Amenity or the Environment</p> <ul style="list-style-type: none"> <li>• Development prior to compliance with the</li> <li>• discharging of conditions on a planning approval</li> <li>• Breach which results in serious demonstrable harm to amenity of neighbourhood</li> <li>• Unauthorised development which is in breach of planning policy</li> <li>• Source of significant public complaint</li> <li>• Unauthorised advertisements that have a detrimental impact on highway safety in the view of the Councils Highways service.</li> </ul>	Within 10 working days	Within 28 working days
<b>Low</b>	<p>Minor Reversible Harm to Amenity or the Environment</p> <ul style="list-style-type: none"> <li>• Unauthorised development which is not the source of significant public complaint</li> <li>• Erection of unauthorised advertisements</li> </ul>	Within 30 working days	Within 40 working days

The timing of enforcement action will also depend on:

- Time limit for enforcement action to be taken.
- Previous case history.
- The availability of any witnesses and their willingness to co-operate.
- Blatant disregard of the law involved in the breach or if it was a genuine misunderstanding.
- Willingness of the contravener to put right the breach.

- Likelihood of the offence being repeated.
- The overall probable public benefit of formal action.

## **5.0 PLANNING ENFORCEMENT OPTIONS**

An objective of planning enforcement is resolving problems by negotiation and persuasion. However, there are a number of cases which require formal enforcement action to be taken. Where it is deemed necessary to take such action, the parties will be advised of the action to be taken. The owner/operator affected by the notice will also be advised of any rights of appeal and the penalties for non-compliance.

The Council has adopted a harm assessment form which provides a 'score system' to assist in the prioritisation of cases and help to determine whether it would be expedient to pursue an identified breach of planning control, on a case by case basis. Cases which score below a specified threshold will not normally be pursued, though a retrospective planning application may be invited.



Table 3: Planning Enforcement Actions

<b>Status of the Investigation</b>	<b>The Council's Actions</b>
No breach of planning control has been identified	The Council will write to the complainant to advise them of our findings and the investigation will be closed.
A breach of planning control has been identified where it is not expedient to take action	The Council will write to the complainant to advise them of its findings and provide an explanation as to why no action will be taken in this instance. The investigation will be closed.
A breach of planning control has been identified and retrospective planning application may regularise the breach.	<p>The Council will write to the person responsible for the breach of planning control and explain why the works/use require planning permission and provide advice on how permission can be applied for.</p> <p>The Council expects a planning application to be submitted within 28 days. If an application is not submitted, the Council will decide whether it would be expedient to pursue enforcement action.</p> <p>The Council will write to the complainant to confirm a retrospective planning application is being sought to regularise the planning breach</p>
A breach of planning control has been identified and the matter needs to be addressed.	<p>The Council will write to the complainant advising of the need for action by the owner.</p> <p>The case will be given a priority level.</p> <p>The Council will also write to the person(s) responsible for the breach to advise them what steps they need to take to address the breach of planning control and the timescales within which those steps must be taken. The Council will also advise of the consequences of not complying with its request.</p>
Further investigation is required.	<p>The Council will write to the complainant to advise them of its initial findings.</p> <p>The case will be given a priority level and further investigations will be undertaken by the case officer.</p> <p>The Council will write to the person(s) responsible for the breach to advise them of the information that it needs. This may involve issuing a Planning Contravention Notice (PCN) which must be completed and returned to the Council within 21 days. A PCN may also be issued in the above circumstances.</p>

## 6.0 PLANNING ENFORCEMENT POWERS

### 6.1 Enforcement Actions

This is a summary of the main possible actions; more details can be found in the Local Planning Enforcement Policy.

- **Planning Contravention Notice (PCN)** – in most cases this will be the first step in resolving a breach of planning control. It is the main method for gathering information, possibly including a formal meeting, regarding suspected breaches of planning control. The intention of a PCN is also to send a clear warning that further formal action is being considered once the facts of the case have been established.
- **Enforcement Notice:** this is the most common form of action taken. The notice will specify what the breach of planning control is and the steps needed to put matters right. It also specifies a time before it comes into effect during which time an appeal can be made.
- **Stop Notice:** in exceptional circumstances where a breach continues to cause serious harm to either amenity, public safety or the environment, the Council may in addition to an enforcement notice consider serving a Stop Notice.
- **Temporary Stop Notice:** recently introduced by the Government, can be served without an accompanying Enforcement Notice and can halt activity for a maximum period of 28 days where there is serious harm that needs to be stopped immediately.
- **Breach of Condition Notice:** used when certain conditions placed on a planning permission have not been complied with.
- **Section 215 Notice** when the condition of land or a building is adversely affecting the amenity of an area
- **Prosecution** for unauthorised works to protected trees or listed buildings or where adverts are displayed without consent.

### 6.2 Proceeds of Crime Act

Any benefit derived from a breach of planning control which has continued in breach of a formal notice, in the form of financial gain or income, may be forfeit under the provisions of the Proceeds of Crime Act. Act.

## **7.0 WHAT IF A COMPLAINT IS MADE ABOUT YOUR PROPERTY OR DEVELOPMENT?**

If a complaint is received about your property or development then the Local Planning Authority (LPA) has a duty to investigate the complaint in order to establish whether or not there has been a breach of planning control. It is often the case that breaches of planning control are not intentional and may arise from a misunderstanding or the person involved being unaware of planning regulations, and in many cases, it is established that there has been no breach of planning control.

### 7.1 Your responsibilities

If you receive a letter or a visit from an enforcement officer then we would encourage you to respond quickly, positively and to provide any required information so that the matter can be resolved quickly to the benefit of all parties.

The LPA will not reveal the details or identity of the complainant(s) to you. The investigating enforcement officer will confirm to you as soon as practicable whether or not it is considered that there has been a breach of planning control, and in cases where there has been no breach the matter will usually be resolved quickly.

In cases where a resolution may be negotiated, the enforcement officer will be happy to enter into discussions; however, we will not accept undue delays to required actions or responses during these negotiations and will expect you to respond within stated timeframes.

In some cases, however the unauthorised development or activities will not be considered acceptable and you will be requested to cease/remove the works in order to avoid a formal notice being served upon you.

### 7.2 Consequences of unauthorised development

Property owners should be aware that development that does not benefit from the necessary planning permission is unauthorised. Any unauthorised development could delay or potentially prevent a future sale of the property if the relevant permissions do not show up on searches. Additionally, any formal enforcement notices served will be registered with the Councils land charges section and will appear during any searches on the property. Consequently, it is in the owner's interest to have all necessary planning permissions in place and any enforcement issues resolved.

### 7.3 The Investigation

The planning enforcement officers have a right of entry onto any land without warrant in order to investigate an alleged breach of planning control. If it is necessary to enter your house (and not just the garden) then you are entitled to 24 hours' notice. It is an offence to wilfully obstruct an enforcement officer exercising their right of entry and further action will be taken should this be the case, including if necessary a warrant being secured from court.

Upon receipt of a complaint the enforcement officer will usually visit the site concerned without advanced warning being given. The site visit may be unaccompanied and the land owner or developer does not have to be present. At the site visit the enforcement officer will make themselves known to any person(s) present and show the appropriate identification when they enter the site. Should the land owner or occupier not have been present at the time of the initial site visit and it was not possible to gain access, or should it be necessary to contact the land owner or occupier after establishing that there is a breach of planning control on the site then a letter will be sent to the owner and/or occupier. The letter will request contact to be made with the enforcement officer and in some cases requiring specific actions taken within a specified timeframe. It is recommended that you respond to this correspondence as soon as possible.

## **8.0 PHYSICAL AND VERBAL ABUSE TOWARDS OFFICERS**

The Council will not tolerate any physical or verbal abuse towards its planning enforcement officers. Where necessary the Council will use legal action to prevent abuse, harassment or assaults on its Officers.

## **9.0 FURTHER INFORMATION**

This guidance gives a brief overview of planning enforcement, further details such as legislation and greater detail on powers and actions of enforcement can be found in the Local Planning Enforcement Plan. [Local Planning Enforcement Plan](#)