



## Enforcement Plan (July 2021)

## Forward by the Leader of the Council

“Three Rivers is a fantastic place to live and work and new exciting development should be encouraged to enhance our communities and way of life. However, there are some who attempt to flout our planning laws and it is important that they are held accountable and deliver the high quality developments expected by the Council and its residents. Without planning enforcement the public trust in the planning system disappears and our environment and quality of life would be poorer as a result.

Three Rivers District Council has an excellent track record of bringing those in breach of planning control to account and has defended a large majority of enforcement appeals which has attracted interest from across the country.

It is recognised that planning can be very emotive and subjective but Officers will continue to work closely with land owners where a breach of planning control has occurred and negotiate how to resolve any identified breach. Where that fails we should not be afraid to take formal enforcement action.

Negotiation is huge part of the enforcement process and underpins our updated Enforcement Plan which sets out that the Council will seek to resolve breaches both amicably and proportionately whilst setting out a clear process.”

*“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”*

Paragraph 58 of the National Planning Policy Framework (2019)





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Versions	Action
Version 1	Adopted March 2013
Version 2: Draft May 2021	tbc



## 1 Introduction

- 1.1 Planning Enforcement plays an important role in monitoring development and investigating potential breaches of planning control in order to maintain the integrity of the development management process. The enforcement arm of the Development Management department is made up of planning officers and receives approximately 300 reports a year.
- 1.2 Enforcement action is discretionary, however a Local Planning Authority's (LPA) duty to investigate an alleged breach of planning control is not. As a result, Three Rivers District Council ("the Council") will endeavour to deal with enforcement investigations in a comprehensive and efficient manner, taking action only where it is proportionate and expedient to do so.
- 1.3 However, planning enforcement is from the outset intended to be remedial rather than punitive and must always be proportionate to the breach at hand. Officers will always seek, where possible, to resolve the breach through negotiation and consider the level of harm created before considering formal enforcement action.
- 1.4 The department has many success stories through negotiation and taking enforcement action. Examples are highlighted within this plan to highlight the consequences of undertaking unauthorised works without obtaining planning permission.
- 1.5 As set out within the National Planning Policy Framework (NPPF), Councils are expected to adopt Local Enforcement Plans. A plan was first adopted by the Council in 2013. The revised plan underpins all planning enforcement work at the Council and sets out how Officers must deal with alleged breaches of planning control and what the public can expect from the service.

## 2 Our vision & mission:

***To be known as an approachable and professional department which seeks to react to breaches of planning control to maintain the high quality of life and amenity for future generations within Three Rivers.***

***To react to breaches of planning control in a confident, professional and proportionate manner.***



### 3 **An Overview of Planning Enforcement in Three Rivers**

- 3.1 The planning enforcement service is reliant on public engagement with the majority of breaches of planning control brought to the attention of the Council by those who are affected, for example, nearby residents. Complaints are also often received from other statutory bodies, Council departments and locally elected Councillors.
- 3.2 Since the adoption of our first Enforcement Plan back in 2013 the Council has noted significant changes to the types of planning breaches which are occurring throughout the district. As a relatively rural district there are significant pressures on our Green Belt whilst the relaxation of the Government's permitted development rights has seen a huge increase in householder developments which in turn attracts a substantial volume of complaints.
- 3.3 A clear trend exists between unauthorised works taking place and the lack of professional pre-application advice sought from the Council. Planning can be complex and with constantly evolving legislation many developers/homeowners are caught out or badly informed by others which can lead to problems later down the line. This can all be avoided by seeking pre-application advice from the Council via the following means:

#### **Householder duty planner service**

When seeking advice on small scale/householder developments such as extensions the Duty Planning Officer will be able offer informal guidance.

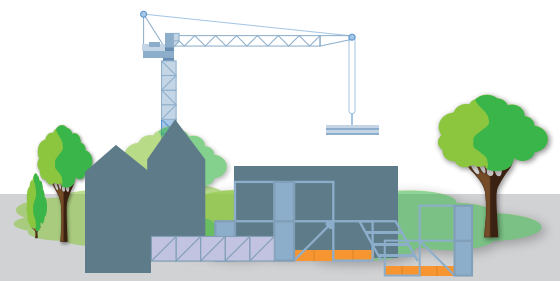
#### **Pre-application advice**

When ascertaining whether works might be acceptable in planning terms a written response will be provided at a charge. This service should also be used by those who have undertaken unauthorised works and seek guidance as to their next steps.

- 3.4 Where pre-application advice is not sought for harmful development and there is no willingness to engage with Officers the Council will not hesitate to take enforcement action.

### 4 **What is a breach of planning control?**

- 4.1 A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 ("the Act") 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.
- 4.2 This could involve matters such as the erection of a building or an extension to a building, a material change of use of land/buildings, the removal of a protected tree or the display of unauthorised advertisements.



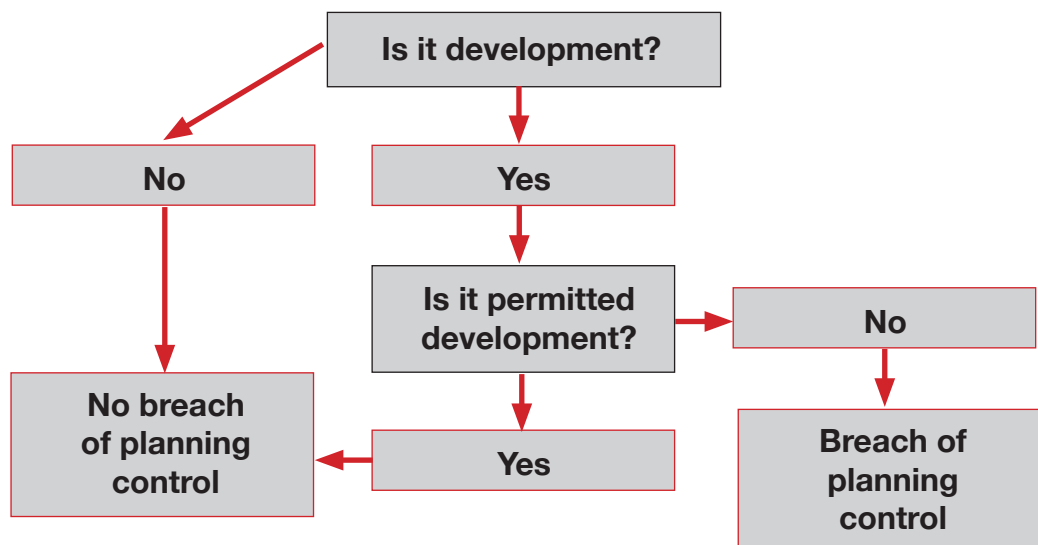
4.3 It is important to note that Officers cannot consider complaints which relate to an obstruction of a highway, parking of commercial vehicles on a highway, boundary disputes, deeds and covenants, trespass issues and health and safety matters. The abovementioned complaints are not an exhaustive list but give an indication as to the matters which cannot be investigated by the department.

4.4 Following a report alleging a breach of planning control it is necessary for Officers to firstly consider whether 'development' as defined in section 55(1) of the Act has occurred:

*"...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."*

4.5 Notwithstanding the above, even if it has been determined that development has occurred, the works may automatically be granted planning permission (also known as permitted development) by a Government Order, such as the General Permitted Development Order 2015 (as amended) (GDPO). The GDPO covers an array of permitted works from householder extensions to temporary uses of land.

4.6 The table below provides an overview of the above:



4.7 Deemed consent is also available for various advertisements which avoids a requirement to submit an application direct to the Council. Deemed consent is set out within The Town and County Planning (Control of Advertisements) (England) Regulations 2007.

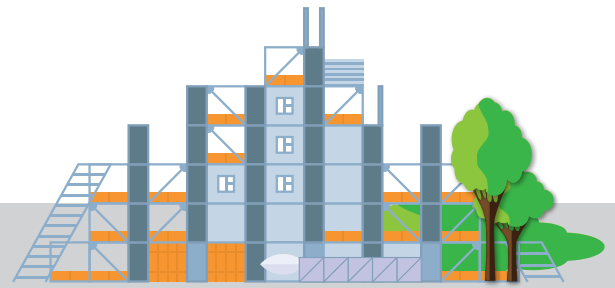


## 5 How to report a breach of planning control

- 5.1 All breaches of planning control should be reported online via the 'Report it' function on the Three Rivers website. **<https://my.threerivers.gov.uk/MyServices>**
- 5.2 When handling personal information received in the course of an enforcement investigation, the Council will comply with the Data Protection Act and General Data Protection Regulation (GDPR). However, the Council can be required to disclose non-personal information on receipt of a request under the freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Council's Privacy Notice for Development Management and Enforcement can be found on the Council's website.
- 5.3 Anonymous complaints will not be investigated unless a view is taken that the suggested breach is significant and warrants investigation in the public interest.
- 5.4 There may be situations whereby the Council is required to rely on evidence from complainants in order to take action or supplement/corroborate existing evidence. Therefore you will need to consider whether you are willing to actively assist the Council by collecting evidence and acting as a witness at an appeal or in Court. You will be notified in advance and given a choice to assist the Council.

## 6 Priority cases

- 6.1 Due to the volume of complaints the department receives it is necessary to prioritise investigations into two categories to allow for resources to be concentrated on specific issues which arise.
- 6.2 **Priority 1:**
- 6.2.1 The following are breaches of planning control that must be addressed urgently because they have the potential to cause irreparable harm to the environment. These include:
- On-going unauthorised works to a listed building
  - Demolition of buildings within a conservation area
  - On-going unauthorised works to protected trees
  - Works that could cause serious or irreversible harm
- 6.2.2 In such cases an investigation will be opened within **1 working day** of the receipt of the complaint and a site visit will occur within **1-3 working days**.



## 6.3 **Priority 2:**

6.3.1 The following are breaches of planning control that would result in unacceptable levels of impact on the environment or involve activities that have the potential to represent some adverse impacts upon the environment and local residents.

- Breach of planning conditions (i.e. non-compliance with pre-commencement conditions)
- Works not in accordance with planning permissions
- Material change of uses
- Demolition of buildings outside of conservation areas
- All breaches relating to householder developments
- Unauthorised advertisements
- All other breaches

6.3.2 For priority 2 cases an investigation will be opened within **5 working days** and a site visit will occur within **20 working days**.

6.4 The Council aims to visit enforcement sites regularly to monitor and investigate alleged breaches (and also proactive monitoring of key planning conditions on large development sites) and its Officers will therefore make unscheduled site visits for this purpose. Planning Officers have statutory powers of entry under planning legislation to enter land for the purpose of investigating potential breaches (section 196A of the Act) and to serve Notice. Where access to land is refused, a warrant of entry may be obtained from the courts where it is necessary to effectively investigate and resolve alleged breaches (section 196B of the Act).

6.5 All planning enforcement officers are required to carry approved identification which can be produced for inspection upon request. Access may be requested to nearby properties where this is necessary to fully investigate an alleged breach.

## **7 What can you expect from us**

7.1 Upon receipt of an enforcement report all complainants will be sent an Acknowledgement Letter which will include the relevant details of the case. During the investigation updates will be provided during key stages where possible. However, given the volume of complaints the department receives and the complexity of many cases it is always advisable to contact the Case Officer directly for an update.

7.2 Where a breach of planning control has been identified, Officers will investigate the matter fully as set out in more detail below. It should not be assumed that just because a breach of planning control exists that enforcement action will automatically follow.

7.3 In cases where a breach of planning control has been identified, the contravener (i.e. landowner/occupier) will always be notified in writing, clearly setting out the reason why the Council considers there to be a breach along with the necessary actions to undertake.





7.4 Where no breach of planning control has clearly been identified the Council will, prior to closing the investigation, write to the complainant setting out why no breach exists.

7.5 In all decision making the following principles will apply:

### **Proportionality**

Any action taken must be proportionate to the breach that has occurred and the level of harm arising from the breach. This means it must be at a level that is necessary to remedy the breach. The purpose of enforcement action is to remedy the breach of planning control, not to punish the offender.

### **Expediency**

Not all breaches of planning control will cause harm. Having regard to the circumstances of each case, the Council must consider whether it is expedient and necessary in the public interest to take formal enforcement action. The expediency of taking enforcement action will be determined having regard to the policies of the Council's development plan and all other relevant planning considerations, in the same way as applications for planning permission are determined.

### **Consistency**

Whilst each case will be different in respect of its individual circumstances, the Council must be consistent in its response to breaches of a similar nature.

### **Transparency**

It is important that the way in which the Council deals with each case and the decisions it makes are clear and easily understood.

### **Equality**

To ensure the way in which the Council deals with each case is not influenced by a person's age, disability, race, religion or belief, sex, sexual orientation, gender re-assignment, marital status or any other factor all cases will be dealt with in an objective manner, which focuses on the breach of planning control.

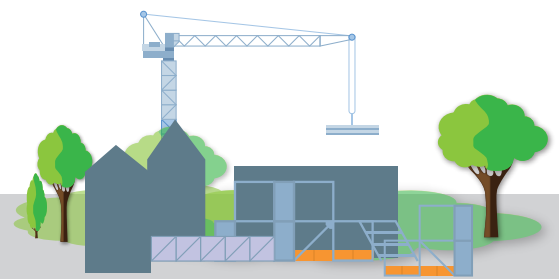
The Human Rights Act 1998 has incorporated part of the European Convention on Human Rights into English law. Under the Act, it is unlawful for any public authority to act in a way which is incompatible with any Convention right. The Council take the provisions of the Act into consideration when making a decision to take enforcement action.

## **8 What is the harm?**

8.1 Where a breach of planning control has been identified following a site visit it is always necessary to consider whether it would be expedient to take formal enforcement action in respect of the development having regard to section 172(1)(b) of the Act. Expediency applies equally to decisions not to take enforcement action or to under-enforce.

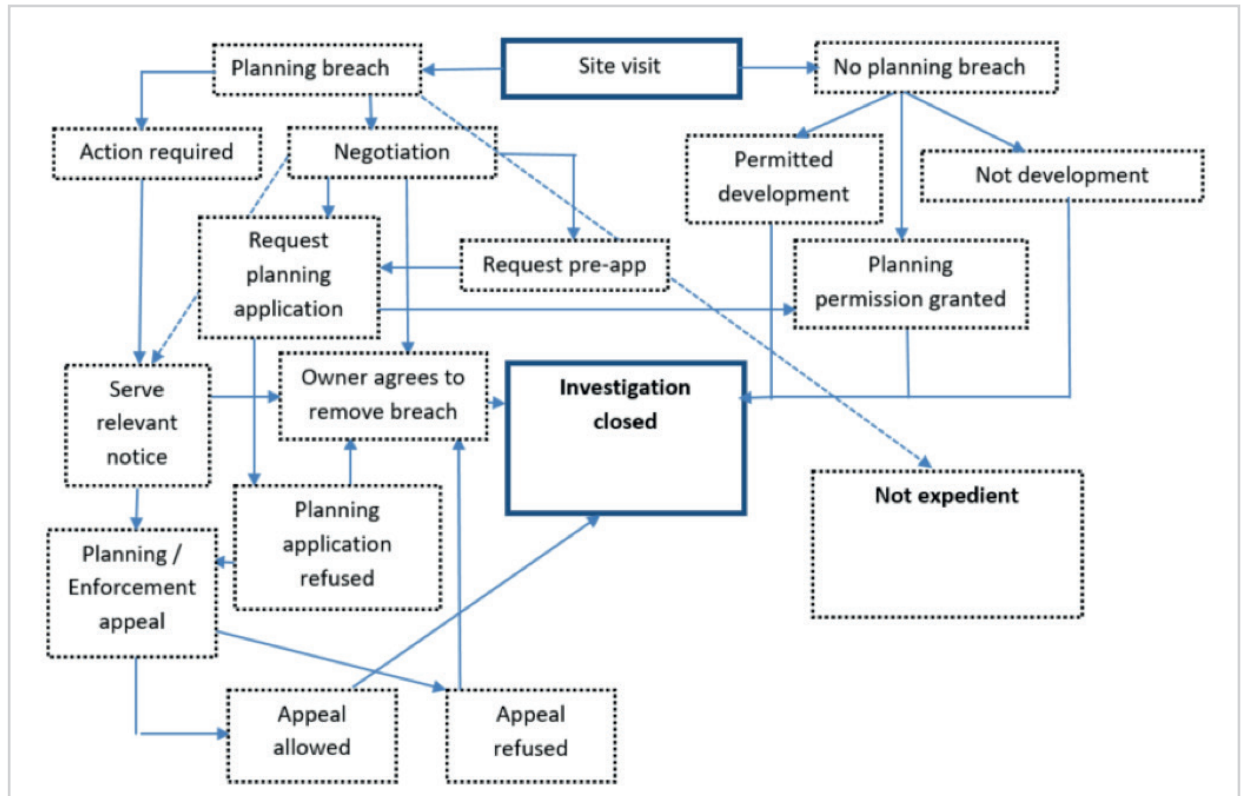


- 8.2 It is recognised that in some cases breaches of planning control are unintentional and the threat of enforcement action can be daunting and stressful. The Council places great emphasis on negotiation to remedy breaches in an amicable way. Given the subjective nature of planning, there will be times when negotiations between parties can only go so far meaning enforcement action may be required to resolve the issue. Where breaches are significant the Council may take the view that no negotiation can take place, especially in cases whereby the very principle of development is questioned or where an offence has been committed. The Council will not allow protracted negotiation to prevent taking enforcement action.
- 8.3 However, the starting point for breaches within Priority 2 will always involve the ability for the contravener to undertake steps to resolve the planning breach meaning that there will not be instant results. This could involve one or more of the following within a requested timescale:
- Submission of a part retrospective or retrospective planning application**
- Where the Council considers that an unauthorised development may be acceptable a retrospective application will be invited. The invitation to submit a planning application does not automatically mean that it would be acceptable. This route is permissible by section 73A of the Act.
- Submission of a pre-application**
- Where the Council considers that the development might be acceptable subject to alterations it will encourage the submission of a pre-application to aid on-going negotiations before submitting a retrospective planning application.
- To build in accordance with the approved planning permission**
- Where deviations from an extant planning permission are observed and are unacceptable a request to build in accordance with the approved plans will be requested.
- To make physical alterations to a development which is not substantially complete to ensure it results in 'permitted development'**
- In some circumstances it may be possible to request alterations to ensure on-going works meet the permitted development criteria. However, once a development has been substantially completed we cannot ask that it is altered to meet permitted development as the GDPO does not grant permission retrospectively.
- An invitation to submit a Lawful Development Certificate in order to submit evidence concerning a breach / immunity**
- Where the works may appear to be lawful via passage of time the land owner will be invited to submit a Lawful Development Certificate as the onus is on the owner to prove on a balance of probability that the use/development is lawful.
- To remove the development**
- Where the works are harmful there will be a request to remove.
- Cease the use and return the land back to its condition prior to the unauthorised works taking place**
- For unacceptable material change of uses we will request that the use ceases and the land returned back to its former condition within a time period.



8.4

The following flowchart shows the various different paths an investigation could potentially take:



8.5

Where a contravener fails to undertake any of the steps within the requested timescale a view on expediency is then required. For Priority 1 cases a view on expediency may be required immediately and the first form of written communication may be an enforcement notice.

8.6

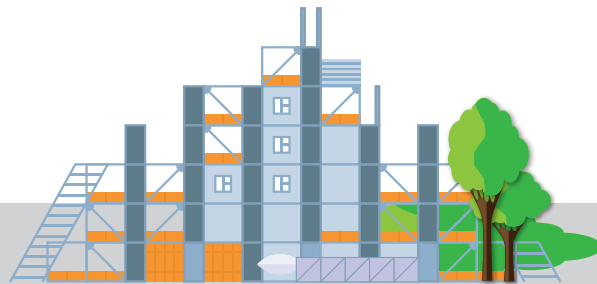
When considering expediency the Council needs to ask itself whether it would hypothetically grant retrospective planning permission having regard to both national and local planning policies and any material considerations that may be relevant.

8.7

It must be made clear that the Council will not be swayed by public opinion to bring about formal enforcement action.

8.8

The repetitive submissions of retrospective planning applications in an attempt to wear down the Council and local residents will not be tolerated. The Council will only allow one attempt (unless changes are significant and/or mitigating circumstances apply) at formalising development before considering taking enforcement action, meaning pre-application engagement is strongly encouraged. The Council will therefore use its powers via section 70A of the Act to not determine an application which is similar to an application which has previously been refused or not determined within the determination period.



- 8.9 Similarly, where the Council has issued an enforcement notice, it will utilise its power under section 70C of the Act to decline to determine retrospective applications which in whole or in part relate to a pre-existing enforcement notice, unless there has been significant planning policy changes.
- 8.10 Where a harmful form of development exists and there is no active or progressive dialogue with the Council, enforcement action is likely to follow without prior notice. Nevertheless, the decision to take enforcement action is always discretionary.
- 8.11 Where it is considered that unauthorised development is not expedient, the Council will inform the complainant setting out clear reasons as to why such a decision has been made. For the contravener, given that unauthorised development remains on the land, significant breaches of planning control will be passed to the Land and Property Team at the Council to inform future prospective purchasers of the breach.

## 9 Taking enforcement action

- 9.1 Where negotiation has broken down with contraveners, the breach of planning control is harmful and therefore enforcement action is expedient, the Council will consider using a range of powers available by the Act. The following enforcement powers available to the Council are as follows:

### Enforcement Notice

The power to issue an enforcement notice is given by section 172(1) of the Act, which states the local planning authorities may issue a notice if they consider it expedient to do so. This is the principle tool available to the Council to remove, correct or remove unauthorised development.

An enforcement notice may also be used where a breach of a planning condition has been identified. Appeals can be made against enforcement notices.

Examples of enforcement notices can be found at **Appendix A**.

### Stop Notices

Where the Council consider it expedient that any relevant activity should cease (generally priority 1 cases) before the expiry of the period for compliance with an enforcement notice, it may, serve a stop notice prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice as per section 183 of the Act.

A stop notice can only be served following or accompanying an enforcement notice and can only take effect after 3 days after the date when the notice is served.



Where a stop notice is served compensation may be payable if any of the following occur:

- The enforcement notice served with the stop notice is quashed under a ground (a) appeal (i.e. where planning permission should be granted)
- The enforcement notice is varied so that any activity which is prohibited by the stop notice ceases to be a relevant activity
- The stop notice is withdrawn.

No appeals can be made against a stop notice but its validity can be challenged by way of an application to the High Court for judicial review.

An example of a Stop Notice can be found at **Appendix B**.

### **Temporary Stop Notice**

Where there has been a breach of planning control and it is necessary to stop the unauthorised works immediately in order to safeguard amenity a temporary stop notice can be issued. The effect of a temporary stop notice is immediate and will have effect for a period of 28 days. During this period the Council must

An example of a temporary stop notice can be found at **Appendix C**.

### **Breach of Conditions Notices**

Where there is a relevant planning permission for carrying out any development and is subject to planning conditions, the Council may, if any of the conditions are not complied with, serve a breach of condition notice on any person carrying out or has carried out the development or any person having control of the land, requiring them to secure compliance with the conditions.

There is no right of appeal following the service of a breach of condition notice.

An example of a breach of condition notice can be found at **Appendix D**.

### **Listed Building Enforcement Notice**

Where it appears to the Council that unauthorised works have been (or are being) executed to a listed building a listed building enforcement notice may be issued. There is no limitation period on the issuing of a listed building enforcement notice so a current owner may be susceptible to enforcement action in respect of historic works undertaken by a previous owner.

### **Urgent Works & Repair Notices to listed buildings**

Section 54 of the Listed Building Act 1990 allows Council the ability to serve an Urgent Works Notice to listed buildings in order to execute any works which appear urgently necessary for the preservation of a listed building.

Section 48 of the Listed Building Act 1990 enables Councils to serve a Repairs Notice on the owner of a listed building specifying those works, which it considers reasonably necessary for the proper preservation of the building.



### **Planning Contravention Notices (PCN)**

Where it appears to the Council that there may have been a breach of planning control in respect of any land, the Council may serve a PCN on any person who is the owner or occupier of the land or has any interest in it or is carrying out operations on the land or is using it for any purpose. A PCN requires the recipient to provide information in respect of a suspected breach of planning control and will usually pose a series of questions which must be answered.

### **Injunctions**

An Injunction is an order of the Court requiring a person to do, or refrain from carrying out an act.

An Injunction may also be sought to prevent an apprehended breach i.e. one which has not yet occurred but is threatened.

An example of the use of an injunction can be found at **Appendix E**.

### **Planning Enforcement Orders**

Where the Council is made aware that a person has deliberately concealed development it can apply to the Magistrates' Court for an enforcement order. The order, if granted, enables the Council to take enforcement action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

9.2

There are other powers available to the Council which include:

### **Building Preservation Notice**

Where a building is not listed but the Council considers that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as a building, it can serve a Building Preservation Notice. Once served, it is in place for 6 months and the Council must submit an application to list the building at the same time to Historic England.

### **Section 215 Notices for untidy land**

Section 215 of the Act provides power for Councils to control land or buildings which are adversely affecting the amenity of the area, requiring owners to remedy the harm caused. They are an essential tool for improving the condition of land or buildings which cause harm to public amenity. Section 215 notices are only used when informal requests to remedy the situation have not produced the desired effect.

An example of a section 215 notice can be found at **Appendix F**.

### **Community Protection Notice**

Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014 allows Council's to serve a community protection notice (CPN) whereby the conduct of the individual (over 16 years old) or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and the conduct is unreasonable. Notices can only be issued after the offender has failed to comply with a community protection warning (CPW). The CPN can be effective in supplementing powers directed towards planning, such as nuisance arising from derelict premises, hoarding, noise and use of residential premises for business.



### Completion Notices

Where development is granted planning permission and work commences within the period conditioned in the permission, there is no breach of planning control if the site sits incomplete for a long period of time. This can be harmful to the amenity of the area and neighbours. The Council has power under section 94 of the Act to issue a completion notice requiring such a development to be completed.

There are a number of conditions when exercising this power and it must be signed off by the Secretary of State.

### Discontinuance Notices

The Council has a discretionary power to take discontinuance action to stop the display of advertisements with deemed consent under the Control of Advertisements Regulations 2007. This includes action against a current advertisement display like flank wall hoarding, or stopping the use of the whole, or part, of a site for the purpose of displaying advertisements.

In order to justify discontinuance action the LPA must be satisfied that it is necessary, for example, to remedy either a substantial injury to the amenity of the locality, or a danger to members of the public.

### Removal Notices

The Council has power under section 225 of the Act to remove and dispose of placards and posters which are displayed in their area and contravene the Advert Regulations. The Council has the power to recover the costs of removing and obliterating the adverts.

Further powers are afforded to the Council in respect of advertisements via section 225A (power to remove and dispose of structures used for unauthorised displays of advertising).

## 10 Enforcement appeals

10.1 Following the service of an enforcement notice section 174 of the Act states that a person who has an interest in the land (i.e. freehold owners, leasehold owners and tenants) or a relevant occupier can make an enforcement appeal, but it must be made before the notice becomes effective. Enforcement appeals are considered by the Planning Inspectorate (PINS).

10.2 When appealing there are a number of grounds of appeal which are:

**Ground (a):** that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

- In effect this a planning application for the matters stated in the notice, or part of them.

**Ground (b):** that those matters have not occurred;

- Used when challenging the allegation alleged in the notice





**Ground (c):** that those matters (if they occurred) do not constitute a breach of planning control;

- This ground may be used if the matters alleged in the notice do not constitute development, or may be granted via permitted development rights

**Ground (d):** that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

- Used if it is too late to enforce against due to the time limits in section 171B of the Act.

**Ground (e):** that copies of the enforcement notice were not served as required by section 172;

- Used if failed service is alleged.

**Ground (f):** that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

- Used if the appellant feels that lesser steps can be achieved to deal with the purpose of the notice. This ground is usually linked to ground (a).

**Ground (g):** that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

- Where the timeframe to comply with the notice is questioned.

10.3

When dealing with an appeal there are three procedures available, although only two are routinely used in enforcement appeals and these are:

#### **Written representations**

- Each party submits an appeal statement to PINS which is considered by a relevant Inspector

#### **Public Inquiry**

- Where it is important that evidence should be given and tested under oath (i.e. ground (d) appeal). Parties seek common ground where possible. The Council may require complainants to provide witness statements and/or present their evidence under Oath.

11

## **Securing compliance with notices / prosecutions**

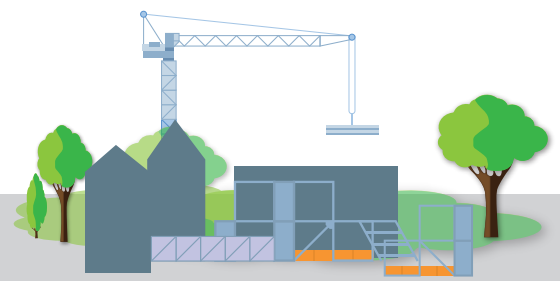
1.1

Where a notice has been served and compliance is due, Officers will visit the site. Failure to comply with a notice is an offence which could lead to criminal prosecutions. Officers may therefore be required to caution an individual where an offence has taken place. Cautions (and PACE interviews) are governed in large by the provisions of the Police and Criminal Evidence Act 1984 and Codes of Practice.

1.2

Where the Council believes an offence has been committed and it is in the public interest to pursue prosecution, proceedings will commence. Offences will start in the Magistrates Court while some may process to the Crown Court (where the offence is “triable either way” or “on indictment” and/or where there has been financial gain and where the prosecution seek confiscation under POCA).





- 1.3 Press articles of some prosecutions within Three Rivers District Council:  
<https://www.watfordobserver.co.uk/news/18921739.scaffolding-company-hunton-bridge-fined-thousands-pounds/>  
<https://www.watfordobserver.co.uk/news/16178316.bungalow-three-rivers-district-demolished/>  
<https://www.threerivers.gov.uk/news/council-restores-green-belt-in-sarratt-after-serious-offences-were-committed>

## 12 Direct action

- 12.1 The Council has powers to enter land and take steps required by notices which have not occurred. These powers are often the most efficient and effective way to remedy breaches of planning control as an alternative to legal processes such as prosecutions. The Council may also recover any expenses occurred which can be recovered via a charge on the land in question.

## 13 Enforcement register

- 13.1 Every Planning Authority must keep an Enforcement Register (Section 188 register). Details of all enforcement notices, stop notices, enforcement orders and breach of condition notices issued in respect of land in their area must be entered in the register. Every entry must be made within fourteen days of the occurrence to which it relates. The details required to be entered are stipulated by the DMPO (Article 43).
- 13.2 The register must be available for inspection by the public at all reasonable hours and indexed to allow a person to trace any entry by reference to the address of the land to which the notice relates. It is important to ensure the register is updated as soon as possible and is kept up to date if a notice is withdrawn or quashed or, in the case of an Enforcement Order, is rescinded or expires.
- 13.3 Section 215 Notices and PCN's are not required to be entered into the Section 188 register.
- 13.4 The Council's register can be found via its Planning Online function (searching for enforcement):  
<https://www3.threerivers.gov.uk/online-applications/>

## 14 Delegation of powers:

- 14.1 The ability for Officers to take enforcement action is set out within the Council's Constitution which is reviewed regularly. i.e. reviewed regularly: <https://www.threerivers.gov.uk/egcl-page/constitution>

## 15 Review / Projects:

- 15.1 This plan will be reviewed at least every 5 years or following a significant change in legislation, national or local policy.
- 15.2 To enhance the ability to tackle unauthorised advertisements across the district and to ensure a robust process is in place to recover costs in removing them, a new procedure should be implemented which follows legislation within Part VII, Chapter III of the Act.



- 15.3 In specific areas of the district which are showing signs of deterioration the Council will look at an “area project” that will seek to improve the amenity of the area via the service of multiple Section 215 Notices.

## **16 Equality:**

- 16.1 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 LEMP would conflict with the requirements of the Equality Act 2010 or the Council's policy on equality.

## **17 Complaints:**

- 17.1.1 In the event an individual is unhappy with the way in which an enforcement case has been handled all complaints must follow the Council's Corporate Complaints process which can be found at:  
<https://www.threerivers.gov.uk/egcl-page/compliments-and-complaints>

### **Relevant Legislation:**

Town and Country Planning Act 1990, subsequent and secondary legislation including The Town and Country Planning General Permitted Development Orders, Use Classes Orders, Development Management Order and Advertisement Regulations

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning (Hazardous Substances) Act 1990

Planning and Compensation Act 1991

Planning and Compulsory Purchase Act 2004

Localism Act 2011

Planning Act 2008

Equality Act 2010, section 149

Human Rights Act 1998

Local Government Act 1972

Anti-Social Behaviour Act 2003

Caravan Sites & Control of Development Act 1960

Clean Neighbourhoods & Environment Act 2005

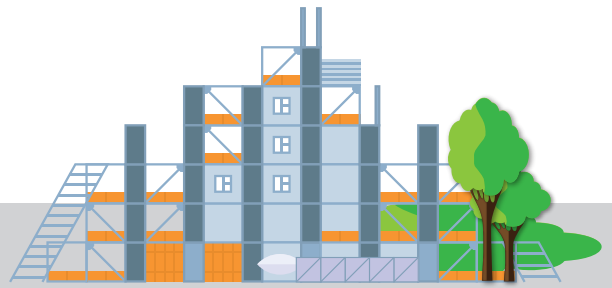
Countryside & Rights of Way Act 2000

Environment Act 1995

Environmental Protection Act 1990

Police & Criminal Evidence Act 1984

Growth and Infrastructure Act 2013



## **Useful publications:**

National Planning Policy Framework

Planning Practice Guidance

Planning Practice Guidance/ Enforcement and post-permission matters

Enforcement of planning law

Town and Country Planning Act 1990 Section 215: best practice guidance

Use of planning conditions

Planning policy for traveller sites

Dealing with illegal and unauthorised encampments

Unauthorised encampments: using enforcement powers

## **Appendices:**

Appendix A: Example of Enforcement Notice

Appendix B: Example of a Stop Notice

Appendix C: Example of a Temporary Stop Notice

Appendix D: Example of Breach of Condition Notice

Appendix E: Example of an Injunction

Appendix F: Example of Section 215 Notice



## Appendix A:

### Example of an Enforcement Notice

#### Unauthorised dwelling in the Metropolitan Green Belt

During the enforcement investigation a Planning Contravention Notice (PCN) was issued to the owner/ occupier who stated that the dwelling has been built and put to continuous residential use for more than 4 years.

On the basis that the building and use appeared to be lawful by virtue of passage of time the Council requested that the owner submits a Lawful Development Certificate. This application was subsequently submitted and as part of the process the Council obtained certified photographic evidence which was contrary to the answers in the PCN response and evidence submitted as part of the Lawful Development Certificate. The Certificate was thus refused and an Enforcement Notice served. The Enforcement Notice was appealed under grounds (a), (d) and (f).

The Council successfully defended all grounds of appeal and the Inspector dismissed the appeal. A costs award was also granted to the Council.

Following the appeal decision letters were sent to all those served with the Notice requiring the Notice to be complied with. The owner failed to comply with the Notice and thus the legal department served the owner with summonses which prompted the works to take place. The owner was subsequently fined £12,000.





## **Appendix B:**

### **Example of a Stop Notice**

A developer was implementing a planning permission but had significantly deviated from the approved plans and had failed to discharge vital pre-commencement conditions. Given how quickly the development was being erected it was expedient to issue both an enforcement notice but also a stop notice.

The Stop Notice required that all activity relating to the erection of three, three bed dwellings with associated vehicular access ceased within 3 days after the date when the notice was served.





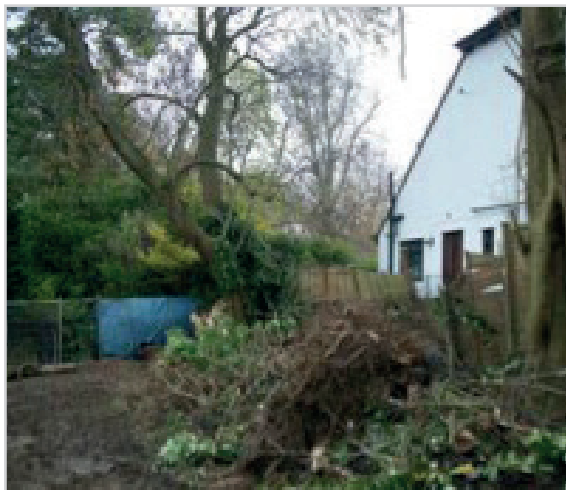
## Appendix C:

### Example of a Temporary Stop Notice

A developer was undertaking extensions without planning permission to a detached house which contained a number of highly valued trees within the site which were individually protected. As the works to the dwelling required planning permission and a protected tree had been removed the Council moved quickly to ensure that the works ceased with immediate effect to avoid further damage to protected trees.

In this instance the developer failed to comply with the Temporary Stop Notice and therefore the Council sought an Injunction from the High Court. The breach of the notice was an offence and the developer was prosecuted £45,000.

Before



After



Following discussions with the Council a planning application was submitted and permitted, ensuring that on-site trees were protected.



## Appendix D:

### Example of Breach of Condition Notice

Following the grant of planning permission a homeowner failed to comply with a tree protection condition after commencing works. A tree of high amenity value within the rear garden was required to be fenced off with all material storage kept out of an exclusion zone prior to works commencing.

As the tree was of high value the Council issued a Breach of Condition Notice which required compliance with the wording of the condition. This involved ceasing the use of machinery within any part of the garden labelled as 'construction exclusion zone', permanently removing all equipment, materials and machinery from the 'construction exclusion zone' and requiring the construction of tree protective fencing as agreed.

Following service of the Notice the homeowner complied immediately.

Before



After





## **Appendix E:**

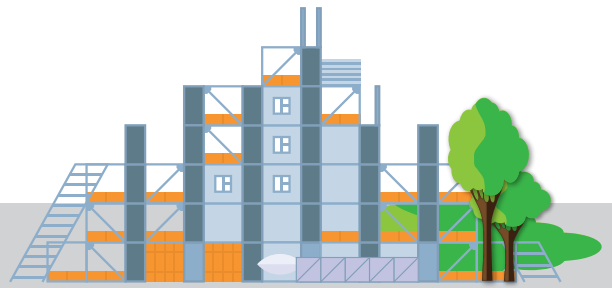
### **Example of an Injunction**

A protected woodland adjacent to a well-established traveller site was removed over a weekend which prompted the Council to move quickly to avoid unauthorised development on the site which fell within the Metropolitan Green Belt. The Council made an application to the Courts and was subsequently granted an Injunction.

The Injunction remains extent and prevents the further removal of trees, laying of hard surfacing, stationing of caravans. A breach of the Injunction is serious and individuals can be sent to prison, fined or assets seized.







## Appendix F:

### Example of Section 215 Notice

Following reports concerning an untidy site in Rickmansworth and failed negotiation the land owner was served with a Section 215 Notice. Extensive works were set out within the Notice dealing with the condition of both the front and rear gardens and to dramatically improve the appearance of the house.

Before



After

