

Local Enforcement Plan



Appendix B – Revised Local Enforcement Plan – Jan 2019

CHORLEY COUNCIL PLANNING SERVICE LOCAL ENFORCEMENT PLAN

INTRODUCTION

The National Planning Policy Framework (the Framework) recommends that local planning authorities publish a local enforcement plan to manage enforcement proactively and in a way that is appropriate to their area.

This Local Enforcement Plan (the plan) sets out priorities for investigation, explains the type of complaints that will be investigated, and outlines the Council's general discretionary powers with regard to planning enforcement. The details below identify how to make a complaint and the table provides a quick guide to what you can expect from the service in terms of timescales. Further detail is provided in later sections of the plan.

HOW TO MAKE A COMPLAINT

We can accept a complaint about an alleged breach of planning control in writing, by email, by reporting online via our website, or in person at our offices.

We reserve the right to refuse to accept anonymous complaints.

Our contact details are:

Chorley Council
Civic Offices
Union Street
Chorley
PR7 1AL

Tel 01257 515151

Web: www.chorley.gov.uk

e-mail: dcon@chorley.gov.uk

The Council stores the details of any complainant securely and confidentially.

Process timescales and outcomes

Milestone	Timescale (from receipt of complaint)
Acknowledgement letter sent to complainant and case allocated to a Case Officer	5 working days
Investigation commenced by Case Officer	10 working days (immediately for High Priority cases ¹)
Case Officer recommendation made to Manager	8 weeks
Manager makes final decision on course of action	10 weeks
Complainant updated on chosen course of action and reasons for the decision	10 weeks
Further updates to complainant	When significant developments in a case development occur. Complainant can contact the Case Officer at any time for an update.

¹ High Priority cases are those involving unauthorised works to a listed building, substantial demolition works within a Conservation Area and unauthorised works to protected trees

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AIMS OF THE PLAN

The plan is intended to benefit both complainants and those responsible for a breach of planning control to ensure that planning enforcement operates in a consistent, balanced and proportionate manner and provides an efficient, effective and fair service.

It is the duty of the property owner, occupier or business operator to ensure all necessary consents have been obtained in order to carry out the work or activity they are considering, and it is important to engage with the Council as early as possible. Permission from the Planning Service (such as planning permission, listed building consent, or advertisement consent) is not the only consent that may be needed for a development. Dependent upon the nature of the development, Building Regulations Consent may be required for building works, or an alcohol licence, food registration certificate or HMO (Houses in Multiple Occupation) licence may be required for changes of use. This policy relates only to issues relevant to planning matters.

AIMS OF THE SERVICE

The aims of the enforcement service are to:-

- To protect amenity;
- To safeguard the built environment;
- To uphold local planning policy;
- To provide a high quality service to our customers; and
- To provide a speedy and effective service.

WHAT IS A BREACH OF PLANNING CONTROL

The Council is committed to investigating all reported breaches of planning control. Breaches of planning control are defined in the Town and Country Planning Act 1990 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.”* In addition, other unauthorised works such as those to protected trees or listed buildings or advertisements (covered by the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town & Country Planning (Tree Preservation)(England) Regulations 2012), also fall within the control of the local planning authority.

Certain types of building works or changes of use are defined as ‘permitted development’ which means that an application for planning permission is not required. Whether or not planning permission is required depends on several factors; these are detailed in the Town and Country Planning [General Permitted Development] Order 2015 as amended. Help in understanding ‘permitted development’ can be found in various sources. For example: <https://iapply.co.uk/> which also provides a method of applying for planning permission.

Types of breaches of planning control

Breaches of planning control can include undertaking the following types of work where they need consent (although this is not comprehensive):

- Building work requiring planning consent i.e. extensions, new homes, conversion to flats;
- Works to a listed building without Listed Building Consent;
- Demolition taking place in a Conservation Area;
- Works to, or removal of, protected trees;
- Not building in accordance with the approved plans;
- Advertisements being displayed without consent;
- Breach of conditions on a planning permission;
- Construction of high fences;

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- The neglect of land and/or buildings that adversely affects the amenity of the neighbourhood; and
- Fly posting.

It is worth stressing that it is not an offence to carry out development without first obtaining planning permission or consent, unless it relates to;

- works to a statutory listed building;
- demolition within a conservation area;
- works to protected trees (whether covered by a Tree Preservation Order (TPO) or where it lies within a conservation area); or
- the display of advertisements where they do not benefit from deemed consent.

Other unauthorised works only become a criminal offence once an enforcement notice has been served, the works have not been remedied before the compliance period, and there is no outstanding appeal against the enforcement notice.

Time limits

A breach of planning control becomes immune from enforcement action if the local planning authority has failed to take formal enforcement action against it within the time limits set out in the Town and Country Planning Act 1990. The relevant time limits are: -

- **Four years** from the substantial completion of operational development and from the change of use of any building to a single dwelling house, including use as flats; and
- **Ten years** for all other breaches i.e. change of use or breach of conditions other than those related to single dwelling houses.

There are no time limits laid down in relation to operational works to a listed building.

Not planning issues

There are a number of issues which require consent from a landowner or third party but do not normally require planning permission, or where the issue is a private civil matter or covered by other legislation. Whilst these issues may be important and cause concern, they are not issues where the local planning authority can intervene unless restrictive conditions have been imposed upon the granting of a planning permission. Common examples are:

- Boundary disputes, deeds and covenants – these are a private matter;
- Internal works to a non-listed building – although Building Regulations may be required;
- Party wall agreements;
- Obstruction of the highway;
- Removal of trees, bushes etc. (unless located in a Conservation Area or covered by a Tree Preservation Order (TPO));
- Operating a business from home where the primary use remains residential;
- Competition from other businesses; and
- Permitted development.

WHAT WILL HAPPEN TO A COMPLAINT

First of all, the Council must investigate the alleged breach of planning control by carrying out a site visit and/or undertake an initial assessment to establish whether a breach of planning control has occurred. Sometimes establishing whether a breach of planning control has occurred can revolve around complex legal interpretations and planning judgements. If no breach has occurred then the Council will be unable to take any further action.

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In the majority of cases where a breach has taken place, the Council will seek to negotiate compliance rather than take formal enforcement action. The Council may also seek the submission of a retrospective planning application. If such an application is made, then neighbours and the person who made the complaint will be consulted on that application. This will depend upon the level of harm caused by a development (see following section).

Please note that the Council often has to rely on the help of the person reporting the breach to provide the evidence required in order to establish whether a breach of planning control has occurred and take appropriate enforcement action.

What is 'harm'?

Harm resulting from a breach of planning control may concern amenity or highway safety issues and could include for example noise nuisance, loss of daylight or privacy, or danger from increased traffic flows; this is not an exhaustive list. Harm to the visual amenity of an area could occur for example through unauthorised work to a listed building, demolition within a Conservation Area or works to a protected tree.

Not all unauthorised development is considered to be bad development. It is for this reason that formal enforcement action will not be pursued where, in planning terms, the development is considered to be acceptable.

Once the alleged breach has been investigated, and it has been established that harm is being caused, action may then be taken.

Reported breaches of planning control that may result in immediate, substantial or irreversible harm will be given **High Priority**, for example:

- unauthorised works to a listed building;
- (substantial) demolition works in a conservation area; and
- works to protected trees.

Timescales

The Council receives around 500 complaints every year about alleged breaches of planning control and cases take a varying amount of time to reach a conclusion depending on numerous factors. Dealing with enforcement complaints can be a lengthy and complex process. In consequence, it is not possible to give a standard time for dealing with enforcement cases. The Enforcement Officer responsible for your case will advise you of any significant progress made with regards to investigating your complaint as and when this occurs, please be aware that due to peak workload, this may take more time to conclude.

Target timescales are as follows:

- We will acknowledge the complaint in writing within 5 working days, identifying a reference number, our contact details and how you can view our Local Enforcement Plan (this document);
- Investigations into High Priority cases will commence immediately, all others within 10 working days;
- An officer recommendation for taking further action or closing the case will be made within 8 weeks of receiving the complaint;
- A manager will review the recommendation and make a final decision on the Council's course of action; the complainant will then be notified within 10 weeks of the acknowledged complaint; and
- If the course of action involves taking formal enforcement action, such as issuing an enforcement notice, the landowner has a right of appeal against the notice which, if utilised, can take months to resolve. In such cases, every effort will be made to

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update the complainant when significant milestones occur, however, it is suggested that complainants contact the Council should they require an update during the interim period.

Dealing with persons responsible for the alleged breach

It is important to understand that it is not an offence to start building works or make a change of use without planning permission. Therefore, just because something has not got planning permission it does not necessarily mean that we will take action to stop it.

Before determining what action is to be taken in respect of an enforcement enquiry, the person responsible for the alleged breach of planning control will usually be given the opportunity to explain the situation. Occasionally, we will interview the person responsible who will be advised in writing of the Council's intended course of action.

There are three principal courses of action available:

- Negotiate a Solution - In many cases breaches of control can be rectified through negotiation rather than by more formal action and such an approach will be taken when this is seen to be the most reasonable way of dealing with a breach;
- Submission of a 'retrospective' application for permission- In some cases it may be expedient to seek the submission of a retrospective application. This is provided for by Section 73A of The Town and Country Planning Act 1990 (as amended); and
- Formal Action - Where it appears justified, any relevant evidence will be gathered and a report presented to the relevantly authorised person/committee to seek permission to take formal enforcement action.

We aim to be proportionate in our response to breaches of planning control, and in deciding what action to take; we will consider whether it is expedient to do so based upon the harm being caused by the development.

How we decide if an investigation is 'complete'

We consider our investigations to be "complete" when one of the following points has been reached:

- The case is closed because the investigation identifies that no breach in planning control has occurred;
- The case is closed because an alleged breach of planning has been identified but then resolved by negotiation;
- A planning application or other form of application has been submitted and approved following the investigation;
- A breach in planning control has been identified and an application requested but not submitted, it is not considered expedient to take formal action due to no unacceptable harm being identified; and
- The breach has been resolved through the undertaking of formal enforcement action.

When formal action is authorised, a notice is served on the relevant parties (anyone with a legal interest in the site) specifying what action they are required to take to correct the breach. Depending on the circumstances, a notice may require the unauthorised use to cease, the unauthorised building works to be removed, or for the unauthorised use or building works to be changed to make it acceptable, and in extreme cases to prevent unacceptable development continuing.

In cases involving listed buildings, protected trees and adverts an offence may have been committed and fines may be imposed on conviction by the Courts. If a notice is not complied with, the Council may consider legal proceedings.

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Compliance Checking

In order to maintain public confidence in the planning process, national planning guidance asks local planning authorities to consider a pro-active approach to enforcement. The Council will therefore identify a sample of planning applications and/or developments and check for compliance. The outcome of the compliance check will be reported to the applicant, agent or landowner. Any non-compliance will be addressed through usual enforcement practice.

We ask all our Customers

To be courteous, patient and honest; and to help us by:

- making any comments on enforcement cases by email or by using our website;
- recognising that the enforcement service exists to protect the public interest and not private interests or rights of individuals;
- contact us for updates;
- acknowledge that there are many cases under investigation at any one time; and
- accept that some enforcement matters are complex and may take a long time to resolve.

If you wish to complain about our service

Complaints about the way in which enforcement complaints have been handled will be dealt with through the Council's Complaints Procedure, details of which can be found on the Council's web site. It is possible that initial complaints made over the telephone and/or in writing can be resolved on the spot. Where it is not possible to resolve the complaint on the spot then this should be put in writing (letter or e-mail) and will enter the Council's formal Complaints Procedure.