

# Canterbury City Council

## Planning Enforcement Plan

### Introduction

When development takes place without planning permission, this can have a harmful impact on the quality of life of local residents and the local environment. In such case the Council has the discretion to take enforcement action. This Planning Enforcement Plan, which supersedes the Local Planning Enforcement Plan, sets out how the Planning Team will respond to breaches of planning control and the powers the Council has under the Town and Country Planning Acts to deal with breaches of planning control.

The Enforcement Plan will support the creation and maintenance of attractive and successful places in which people are happy to live, work and take their leisure. Government says in National Planning Practice Guidance that:

*“There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.”*

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

Nationally, the majority of reported breaches of planning control are resolved without any formal action being taken. However, where it has been decided that it is appropriate and proportionate to take action to deal with significant harm to the environment, the Council will act robustly and with alacrity.

### What is a breach of planning control?

A breach of planning control involves unauthorised development such as:

- buildings built without planning permission
- ‘material’ change of use of land or buildings without planning permission
- unauthorised display of advertisements
- land kept in poor condition if it has a significantly harmful effect on the character and appearance of an area
- cutting down or carrying out works to legally protected trees without consent
- internal or external works to Listed Buildings without consent
- development not built in accordance with the approved plans of planning permission

- non-compliance with conditions attached to a planning permission

### **How to report a breach of planning control**

The Council operates an enquiries-based system, where potential breaches of planning control are investigated when we are notified by members of the public. You can report potential breaches on the Council's website using the following link:

[https://www.canterbury.gov.uk/forms/form/79/en/report\\_a\\_breach\\_of\\_planning](https://www.canterbury.gov.uk/forms/form/79/en/report_a_breach_of_planning)

The information you will be asked to provide is set out below:

- the address or a description of the site in question
- a description of the activities taking place
- if known, contact details for the persons carrying out the activities or the landowner
- any other information that may assist our investigations, for example photographs, plans, a log of the date and times that the activities have taken place etc.

Should you report a potential breach of planning control, you will need to give your name and contact details, although your identity will be kept confidential. We do not normally investigate anonymous complaints unless they allege serious breaches of planning control that can be identified clearly. If we need further information to assist our investigation, we may contact you and we will also let you know the outcome of any investigations.

You can also telephone the Council and speak with the Contact Centre who will take the details of your enquiry where matters are urgent and affect the public interest.

### **How we prioritise reported breaches of planning control**

On receiving a report of a potential breach of planning control, we will first check whether it is a planning matter that the Planning team can deal with and then, within 3 working days we will let you know whether we will be investigating the breach. All cases are categorised by priority:

**High priority** will be given to:

- enabling the Council's wider regeneration objectives to be met
- potential breaches that may cause significant harm to the living conditions of neighbours
- ensuring compliance with Section 106 legal agreements
- dealing with potential breaches that may cause significant irreparable damage to Listed Buildings, harm to specially protected areas (including Conservation Areas) and other visually prominent development
- unauthorised works to TPO protected trees and trees within Conservation Areas (where it is judged that those trees have a high amenity value and the works would cause significant harm to the amenity of an area)
- Untidy sites which have a significant harmful impact on the amenity of the local area

**Low priority** will be given to other cases, in particular those where the unauthorised development has a relatively limited impact on the amenity of local residents and the local environment or is minor in nature and has become established over time.

### **How we investigate**

The Planning Team will investigate complaints taking the following steps:

- check to see if there is a breach of planning control (or something that the Council or another organisation eg. Kent County Council is able to deal with)
- check to see if the development already has planning permission
- decide whether the matter should be further investigated
- decide the priority of the matter
- decide whether it is expedient to take action

People who report potential breaches will be informed of the conclusion of the Council's investigations and whether or not the Council intends to take any further action. In straightforward cases, they will be contacted within a short time, usually no later than 28 working days of their initial enquiry, although some enquiries may take longer to resolve.

### **Possible outcomes of an investigation**

If a breach of planning control has occurred, the Planning Team will decide whether or not it is expedient, in the public interest, to take action. This decision will take into account the Council's planning policies and whether there are harmful impacts of the developments.

1. In instances where **development is judged by the Council to cause harm**, the Council will decide whether it is expedient to serve an Enforcement Notice or use any other powers that it has to address the harm including, where judged appropriate, seeking an injunction from the Court. This will include use of s215 Notices to deal with untidy sites which cause significant harm to the amenity of the local area and in exceptional circumstances, where immediate action is necessary and justified, the serving of a Stop Notice.
2. If there is a **breach but the Council judges that there is no significant harm** caused by the development, the developer has the legal option to apply for retrospective planning permission. Such applications are considered in the same way as a planning application made before the development has taken place. Government advice is that action should not be used to penalise someone for carrying out development without first having obtained planning permission. The National Planning Practice Guidance states:

*In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:*

- *there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;*
- *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
- *in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where [planning conditions may need to be imposed](#).*

3. If it is found that there has been **no material breach of planning control or works do not require planning permission**, that will be the end of the matter.

The Planning Team will, where possible, try to resolve the breach through negotiation (nationally, this is the case in over 90% of breaches) through working with the developer to assist them in complying with planning law and policy.

Formal action is a last resort and in those cases when formal action is required, we will act when it is judged expedient to do so and proportionately to the nature and scale of the impacts. The Planning Team will also have regard to legal advice about the likelihood of the success of taking such action, as well as the resource implications to the Council.

Other teams within the Council, Kent County Council or other public organisations may also need to be involved in cases and so the Planning Team will work with the other organisations where necessary to resolve the matter.

### **Matters that the Council cannot address under planning law**

If the matter subject of the complaint is not covered under planning law, the Planning Team will check whether the matter can be investigated by another team within the Council or any relevant organisations and will refer the matter onto them.

The Annex to this Plan sets out some examples of matters that are dealt with by other organisations or other Council teams.

### **Review of Planning Enforcement Plan**

The Council will review this plan at least every three years and update if necessary, in response to future changes in legislation, relevant enforcement guidance and the Council's procedures.

**Annex**

The following are examples of enquiries that are dealt with by other teams within the Council, Kent County Council or other public organisations:

| ISSUE   | WHO DEALS WITH IT?   | HOW TO REPORT IT?   |
|---|--|---|
| Burning of waste or public health issue from growth of natural vegetation | <b>Canterbury City Council</b><br>Environmental Health team  | <a href="http://www.canterbury.gov.uk/info/20045/noise_and_air_pollution/65/report_a_noise_smell_or_smoke_problem">www.canterbury.gov.uk/info/20045/noise_and_air_pollution/65/report_a_noise_smell_or_smoke_problem</a>  |
| Graffiti (criminal damage)  | <b>Kent Police.</b><br><br><b>Canterbury City Council</b><br>Environmental Enforcement can carry out removal | <a href="http://www.kent.gov.uk">www.kent.gov.uk</a><br><br><a href="http://www.canterbury.gov.uk/info/20044/vandalism_and_graffiti/55/report_graffiti">www.canterbury.gov.uk/info/20044/vandalism_and_graffiti/55/report_graffiti</a>  |
| Littering or fly tipping  | <b>Kent Police.</b><br><br>or<br><br><b>Canterbury City Council</b><br>Environmental Enforcement             | <a href="http://www.kent.gov.uk">www.kent.gov.uk</a><br>(or call 999 where appropriate)<br><br><a href="http://www.canterbury.gov.uk/info/20008/environmental_problems/119/keeping_the_district_clean">www.canterbury.gov.uk/info/20008/environmental_problems/119/keeping_the_district_clean</a> |
| Noise nuisance  | <b>Canterbury City Council</b><br>Environmental Health team  | <a href="http://www.canterbury.gov.uk/info/20045/noise_and_air_pollution/65/report_a_noise_smell_or_smoke_problem">www.canterbury.gov.uk/info/20045/noise_and_air_pollution/65/report_a_noise_smell_or_smoke_problem</a>  |
| Parking issues (for example illegal parking)                              | <b>Canterbury City Council</b><br>Parking Services   | <a href="http://www.canterbury.gov.uk/info/20013/parking_and_roads">www.canterbury.gov.uk/info/20013/parking_and_roads</a>  |
| Poorly maintained private housing   | <b>Canterbury City Council</b><br>Public Sector Housing team   | <a href="http://www.canterbury.gov.uk/contact?cat=169">www.canterbury.gov.uk/contact?cat=169</a>  |
| Poorly maintained council or housing association houses                   | <b>East Kent Housing</b>   | <a href="http://www.eastkenthousing.org.uk">www.eastkenthousing.org.uk</a>  |

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|--|--|--|
| Dumping of waste   | <b>Kent County Council</b><br>Waste and Minerals team<br><br>Or<br><b>Environment Agency</b> | <a href="http://www.kent.gov.uk">www.kent.gov.uk</a><br><br><a href="http://www.gov.uk/government/organisations/environment-agency">www.gov.uk/government/organisations/environment-agency</a> |
| Public footpaths overgrown or obstruction to public highway or rights of way | <b>Kent County Council</b><br>Public Rights of Way team                                      | <a href="http://www.kent.gov.uk">www.kent.gov.uk</a>   |
| Works within the public highway (including works to trees)                   | <b>Kent County Council</b><br>Highways and Transportation team                               | <a href="http://www.kent.gov.uk">www.kent.gov.uk</a>   |
| Anti-social behaviour  | <b>Kent Police</b> or<br>Police Community Support Officers                                   | <a href="http://www.kent.police.uk">www.kent.police.uk</a>   |
| Asbestos on site   | <b>Health and Safety Executive</b>   | <a href="http://www.hse.gov.uk">www.hse.gov.uk</a>   |
| Damage to protected wildlife   | <b>Kent Police</b>   | <a href="http://www.kent.police.uk">www.kent.police.uk</a>   |
| Health and safety issues eg. unsafe working on a building site               | <b>Health and Safety Executive</b>   | <a href="http://www.hse.gov.uk">www.hse.gov.uk</a>   |
| Internal works to a building   | <b>South Thames Gateway Partnership</b><br>Building Control team                             | <a href="http://www.stgbc.org.uk">www.stgbc.org.uk</a>   |

In addition, the following are civil matters that the Council does not have the powers to deal with:

| Issue   | Who to contact                            |
|---|---|
| Building works that affect a party wall (Party Wall Act)            | Independent surveyor                      |
| Disputes or issues relating to Covenants on land or property        | Citizens Advice Bureau<br>or<br>Solicitor |
| Land ownership disputes or where the boundary between property lies | Citizens Advice Bureau<br>or<br>Solicitor |