

PLANNING ENFORCEMENT POLICY

INTRODUCTION

This leaflet aims to help you get the best out of the Development Control Enforcement service. It sets out the main service areas and explains how Great Yarmouth Borough Council carries out its enforcement activities.

The Council exists to serve you. In order to give the best possible service, it is vital that we give clear guidance on what we **can do** and how we balance demands on our services against the resources available to us.

From the information we give below, we hope that you will be able to measure our performance and decide if we have met our own demanding standards. Should you be unhappy with our performance, we hope that Council officers can rectify any problems or explain why we cannot meet your expectations.

IS PLANNING PERMISSION REQUIRED?

Planning enforcement can only be considered where the building work or change of use involved needs planning permission. An initial investigation by the enforcement officer will seek to determine this.

Certain types of building works or changes of use are defined as 'permitted development' meaning that an application for planning permission is not required. Whether or not planning permission is required depends on several factors and these are detailed in the Town and Country Planning [General Permitted Development] Order 1995. Help in understanding 'permitted development' can be found in booklets published by the Office of Communities & Local Government and are available from the Development Control Department at Maltings House, Malthouse Lane, Gorleston, Great Yarmouth NR310GY or via our website www.great-yarmouth.gov.uk .

WHAT IS PLANNING ENFORCEMENT?

Nevertheless most building/engineering work and changes in the use of land or buildings need planning permission from the Council. Sometimes development is carried out without planning permission or does not properly

follow the detailed plans which have been approved by the Council. Cases such as these can cause serious harm to the way in which people live. Residents and businesses have a right to expect that harmful activities are dealt with effectively.

Other situations that can be considered for planning enforcement includes:-

- Unauthorised display of advertisements.
- Unauthorised works to protected trees.
- Unauthorised work to buildings listed as being of special architectural or historic interest.
- Unauthorised demolition of certain buildings within a Conservation Area.
- Land that is in such a poor condition that it adversely affects the amenity of the area.

The term used to describe such cases is, 'breach of control'.

WHAT IS THE PURPOSE OF PLANNING ENFORCEMENT ACTION?

Planning laws are designed to control the development and use of land and buildings in the public interest. They are not meant to protect the private interests of one person against the activities of another.

Carrying out work or changing the use of land or buildings without planning permission is not a criminal offence. In most cases the Council will give the opportunity to apply for retrospective planning permission. However, where serious harm is being caused, the Council will take firm action quickly.

The Council must operate its enforcement activities within Government guidelines and in accordance with Council policy. This means that:-

- The Council must decide whether the breach of control unacceptably affects the quality of life.

- Action should not be taken **just** because development has started without planning permission.
- The Council does not always have to take action but the particular circumstances of the case **must** always be considered.
- It is not normal to take formal action against a minor breach of control that causes no real harm.

But:

- Enforcement action will be taken quickly when it is necessary.

What is 'Harm'?

Harm resulting from a breach of planning control could concern amenity or highway safety issues and include noise nuisance, loss of daylight or privacy, or danger from increased traffic flows for example. 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 work to a protected tree.

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

This harm would **not**, for example include:-

- loss of value to a neighbouring property,
- competition to another business,
- loss of an individual's view or trespass onto someone else's land.

It may be possible to address issues such as these by way of civil action although this is a matter for the individual to pursue and is not an area where the Council would be involved.

WHO CAN COMPLAIN?

Anyone who believes that a breach of planning control has occurred can make a complaint. Except for urgent cases, all complaints should be made in writing.

Please be prepared to identify yourself so that your complaint may be investigated. It is often not possible to investigate anonymous complaints due to lack of witnesses or evidence.

Where a retrospective application for permission is made to regularise unauthorised development, publicity and consultation will be carried out, and people given the opportunity to comment before a decision is taken.

Please Note:

All initial complaints are dealt with in confidence and details of the complainants will not be made known without their agreement. However, the substance of the complaints themselves is not confidential. In some cases it may be necessary to rely on evidence from complainants in order to take action and 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. The Council's Enforcement Officer will explain what may be required in these cases.

WHAT WE NEED YOU TO DO IF YOU WISH TO MAKE A COMPLAINT

If you are concerned about building work, a change of use, or the condition of a property, you should contact the Development Control Section to establish whether there is a problem.

Put your complaint in writing to the Development Control Section Development Control Department at Maltings House, Malthouse Lane, Gorleston, Great Yarmouth NR310GY or via e-mail to plan@great-yarmouth.gov.uk . Describe the problem in as much detail as possible and provide a sketch plan identifying the location of the site. State when and where you are available for interview, including a daytime telephone number if possible.

Complainants who have difficulty in writing down their concerns are advised to seek help from friends or relatives. In addition a list of useful contacts and sources of information is produced at the end of this document.

Once a breach of control has been confirmed, you may be asked to make a note of your observations and keep a log of any relevant activities. It is particularly useful to note times, dates, names, addresses, telephone numbers and registration details of any vehicles involved.

The names and addresses of any other witnesses who may support your case should also be included.

Officers can also be contacted telephone via (01493) 846100. Please ensure that you are in possession of all the relevant facts and relate them calmly. Some people are understandably annoyed about a breach of control and this anger is sometimes vented on Council staff! Remember that the Council will do all it can to resolve the problems and is most effective when you are prepared to actively assist officers with their investigations.

If you also raise your complaint with a Councillor, please advise them of any contact you may have had with the Development Control Section and give them the name of the officer who is dealing with your complaint.

WHAT ACTION CAN THE COUNCIL TAKE?

The Council will first determine whether it is appropriate to take enforcement action by establishing whether a breach of control has occurred. In cases where the situation is unclear, a 'Planning Contravention Notice' will be served on the owner and/or occupier of the property to obtain the facts.

Where a breach of control has taken place, the Council will then make an assessment of the harm caused by the breach of control.

Where an assessment is made that it is likely an unconditional planning permission would be granted the person responsible would be invited to make an application for retrospective planning permission. Similarly where it is likely that planning permission is likely to be granted subject to conditions, a retrospective application would be the most appropriate form of action.

Should no retrospective application be received the Council will commence enforcement action where the breach of control is causing sufficient harm to justify it.

The Council can serve an Enforcement Notice on the owner and/or occupier of the land. The notice explains the nature of the breach of control and sets out what steps it is necessary to take to put things right and a date by which this must be done. If the notice is not complied with, the Council may bring a prosecution in the Magistrates Court.

In the most serious of cases, the Council may also consider serving a Stop Notice or may apply to Court for an Injunction to prevent further harm being caused. This action requires the people responsible to stop specified activities.

In most cases, people who receive an Enforcement Notice can appeal to the Secretary of State for the Environment. An appeal has to set out why it is felt that the action should not be taken. The appeal can be dealt with by an exchange of letters, an informal hearing in front of an Inspector or at a Public Inquiry.

The Council can also carry out other enforcement action, including:-

- Service of a 'Breach of Condition Notice' where development has taken place without compliance with a condition[s] of the planning permission.
- Service of a notice requiring the proper maintenance of land under Section 215 of the town and Country Planning Act 1990.
- Prosecution in connection with unauthorised advertisement display.
- Prosecution for unauthorised work to a listed building.
- Service of a 'Listed Building Enforcement Notice' where unauthorised work has taken place to a building listed as having special architectural or historic interest.
- Service of a 'Conservation Area Notice' where unauthorised demolition has taken place within a designated Conservation Area.
- Prosecution for non-compliance with a requirement to replace a protected tree.

- Prosecution for unauthorised work to a protected tree.
- Service of a notice relating to a dilapidated building under the provisions of section 79 of the Building Act.

WHAT YOU CAN EXPECT

Written complaints will normally be acknowledged within 5 days of receipt and each case will be individually assessed on its merits.

You will be informed of the name of the Enforcement Officer who will be dealing with your complaint. The officer will then check the Council's records, inspect the site and interview witnesses in order to establish whether a breach of planning control has occurred.

If a breach has occurred, the person responsible may be asked to put it right, either by the making of a planning application or by stopping the unauthorised work.

If this approach fails, the Council can then consider serving an Enforcement Notice. The Council may prosecute offenders who do not comply with an Enforcement Notice.

Where the Council decides not to take formal enforcement action or no breach of planning control has taken place, the complainant will be notified in writing of the reason for the Council's decision. Updates on the progress of enforcement proceedings will be given to those who ask for the information.

How long will it take?

Dealing with enforcement cases can be a lengthy and complex process. The different types of enforcement cases vary considerably in complexity as does the time taken for their resolution. If a person decides to appeal against formal enforcement action this will add to the time taken to resolve the case. In consequence it is not possible to give a standard time for dealing with enforcement cases.

If the investigations indicate that a breach of control has occurred that justifies enforcement action an Enforcement Notice will be served. The Notice takes 28 days to come into effect during which time the person involved can appeal

against it to the Secretary of State for the Environment. An Enforcement Notice may be quashed or revised by the Planning Inspector appointed by the Secretary of State.

Where an appeal is lodged the Council can take no further action until the appeal has been decided. It is not unusual for the appeal process to take several months.

An Enforcement Notice specifies the time period needed for compliance. This period will take account of the steps required to comply with the Notice and will set a practical and reasonable period for their completion.

However, if someone does not comply with a notice they may be prosecuted with the possibility of being fined by the Courts.

Where a breach of control is causing serious harm to public amenity in the neighbourhood of a site the Council can seek immediate remedial action. This action may involve the serving of a Stop Notice when an Enforcement Notice has already been issued.

It is helpful to contact the Development Control Section when you have any new information.

The Enforcement officer will advise you of any significant progress made as and when this occurs.

WHAT ARE THE PRIORITIES?

The Council receives approximately 400 planning enforcement complaints every year.

Because of the often lengthy and complex nature of planning investigations and limited staff resources, it is necessary to give priority to those cases where the greatest harm is being caused. The following provides examples how cases are prioritised:-

Priority One

- A serious threat to health and/or safety (eg traffic hazard, development creating pollution problems).
- Permanent damage to the environment (eg loss of protected tree, unauthorised work affecting the character of a listed building).

Where a case is categorised as Priority One, immediate action will be initiated to address the breach of control.

Priority Two

- Building work, which is unlikely to be given planning permission without substantial modification (eg excessively large house extension).
- Unauthorised uses causing severe nuisance through noise, smells, congestion etc.

Priority Three

- A breach causing problems, which may be resolved by, limited modification (eg insertion of opaque glazing in an unauthorised window to overcome privacy problems; restrictions on hours of use etc).
- Property whose condition adversely affects the amenity of the surrounding neighbourhood. The severity of the property's condition will depend whether it is given a priority three or two rating.

Priority Four

- Breaches of a minor nature raising minimal planning concerns (eg house extension built to acceptable standards).
- Advertisements

WHAT IF SOMEONE COMPLAINS ABOUT YOU?

If you are contacted about an alleged breach of planning control you are entitled to know what the allegation is (but not who made it), and have the opportunity to explain your side of the case.

If you are not involved, no action will be taken against you. If you are involved, the Development Control Section will advise you of the details of the breach and how it can be put right.

Your co-operation will be sought to correct the breach, either by removing or modifying the unauthorised development or by ceasing the unauthorised work. A reasonable period of time will be allowed for you to do this.

In some circumstances you may be invited to submit a retrospective planning application if it is considered that permission may be granted.

If you are running a business which is threatened by enforcement action, you will be helped to identify alternative premises so as to minimise the possible impact on the business. This does not mean that the enforcement action will be delayed or stopped.

If you are issued with an Enforcement Notice you will be given the precise details of the breach, the reasons for the action, the steps required to overcome the problem and the time period for compliance.

You may be served with a 'Planning Contravention Notice' that requires information concerning the development carried out. This Notice is used to establish the facts of what has occurred so that the Council can determine whether a breach of control has taken place, and whether formal enforcement action is appropriate. The implications of not completing and returning the Notice will be explained to you.

There are several types of enforcement action [see 'What action can the council take?' above] and further information and guidance on planning enforcement can be obtained from the Office of the Deputy Prime Minister [ODPM] details are given below.

WHERE TO GET MORE INFORMATION

If you require further information or wish to comment and/or complain about this service, contact an Enforcement Officer Direct Lines (01493 846638 / 846428) email plan@great-yarmouth.gov.uk or, in their absence, the Development Control Manager Direct Line (01493) 846420, email plan@great-yarmouth.gov.uk.

USEFUL INFORMATION

Details of Organisations

Name	Address	Telephone/e-mail/website
Development Control [Enforcement], Planning and Development	Development Control Planning&Development Department, Maltings House, Malthouse Lane, Gorleston, Great Yarmouth NR310GY	01493 846100 plan@great-yarmouth.gov.uk
The Planning Inspectorate	Tollgate House, Houlton Street, Bristol, BS2 9DJ	0117 987 8927 www.planning-inspectorate.gov.uk
Office of Communities & Local Government	Eland House, Bressenden Place, London, SW1E 5DU	020 7944 4400 www.communities.gov.uk