



North Warwickshire Borough Council

Planning Enforcement Plan

December 2024*

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1 INTRODUCTION

1.1 This planning enforcement plan sets out in detail North Warwickshire Borough Council's approach on how suspected breaches of planning control are dealt with. This plan accords with current government guidance, the National Planning Policy Framework (NPPF) and with the Council's Corporate Enforcement Policy which seeks to promote compliance with all relevant legislation in the consideration of taking formal action.

1.2 Paragraph 60 of the NPPF (December 2024) states:

*“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”.*

1.3 North Warwickshire is committed to providing an effective planning enforcement service for its residents, businesses, and organisations within the Borough. It also has regard to the provisions set out in the [Governments Regulators Code](#) which although it does not expressly apply to planning enforcement, provides useful guidance on how policy on enforcement is formulated.

1.4 Importantly, the Council considers the disregard of planning regulations as a serious matter. The relevant permissions or consents should always be sought prior to undertaking any form of development, works to trees or display of advertisements. Appropriate action will be taken in accordance with this plan, where it is deemed reasonable and necessary to do so, as set out in paragraph 1.2 above. The objective of enforcement action is about compliance, not punishment.

1.5 This plan sets out how planning enforcement cases will be investigated, monitored, and managed at North Warwickshire Borough Council.

1.6 In particular:

- a) The standard of service our residents can expect from the reporting of a suspected breach of planning control, how the investigation will be processed through to the outcome.
- b) To define priorities for the cases received, in order that resources can be best utilised, corresponding with the nature of the reported breach.
- c) To ensure that our approach with all parties, continues to be courteous, consistent, fair, and transparent.
- d) To set timescales so that delivery of the service can be monitored, measured, and reviewed.
- e) To ensure continued compliance with relevant national legislation and guidance.
- f) To provide an annual report to the Council's Planning and Development Board regarding cases logged, investigated and action taken.
- g) To monitor and review this policy to include consideration and re-evaluation of customer needs.

2 GOVERNMENT GUIDANCE & LEGISLATION

2.1 The planning enforcement function will be undertaken in accordance with current and emerging Government guidance and legislation. We will utilise and apply the most appropriate legislation, dependent upon the nature of the breach, to address the issue and to achieve both a satisfactory, timely and proportionate outcome.

2.2 Whilst the primary legislation used in planning enforcement is the [Town and Country Planning Act 1990](#), we also utilise other legislation and guidance where appropriate, including:

- [The Town & Country Planning \(General Permitted Development\) Order 2015, as amended](#)
- [The Town & Country Planning \(Use Classes\) Order 1987 \(as amended\)](#)
- [The Town and Country Planning \(Control of Advertisements\) Regulations 2007](#)
- [Planning \(Listed Building and Conservation Areas\) Act 1990](#)
- [National Planning Policy Framework \(NPPF\)](#)
- [Planning Practice Guidance](#)
- [Human Rights Act 1998](#)
- [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#)
- [Anti-Social Behaviour Act 2003 \(High Hedges\)](#)
- [Anti-Social Behaviour, Crime and Policing Act 2014 \(CPW/CPN\)](#)
- [Environmental Protection Act 1990](#)
- [Police and Criminal Evidence Act 1984](#)

2.3 In addition to the government guidance and legislation detailed above, any formal enforcement action will be led by policies within the Council's adopted [Local Plan](#) and where relevant, any [Neighbourhood Plans](#).

3 WHAT IS PLANNING ENFORCEMENT?

3.1 The planning enforcement function of the Council is led by a team of three officers within the wider development control service, under the supervision of the Development Control Manager and the Head of Development Control.

3.2 Section 171A of the Town & Country Planning Act 1990 (as amended) defines a breach of planning control as:

“Carrying out development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.”

3.3 It’s important to know that there are time limits in which enforcement action can be taken and if these limits have been exceeded, any unauthorised development will be immune from enforcement action, regardless of whether permission would have been required for development or not.

3.4 Section 171B (as of April 2024) of the 1990 Act defines the time limit for enforcement action as follows:

- *“Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken **after the end of the period of ten years**, beginning with the date on which the operations were substantially completed.*
- *Where there has been a breach of planning control consisting in the **change of use of any building to use as a single dwellinghouse**, no enforcement action may be taken **after the end of the period of ten years** beginning with the date of the breach.*
- *There is no restriction on when enforcement action may be taken in relation to a breach of planning control in response of relevant demolition (within the meaning of section 196D¹)*

¹ [Demolition of unlisted etc building in a Conservation Area](#)

- *In the case of any other breach of planning control, no enforcement action may be taken **after the end of the period of ten years** beginning with the date of the breach.”*

3.5 Notably there are breaches of control, such as unauthorised works to a Listed Buildings or the demolition of an unlisted building in a Conservation Area that have no time limit immunity.

3.6 It is also important to detail what is **NOT** a breach of planning control. The Council can often receive reports regarding matters for which it has no legislative power to resolve or investigate.

3.7 Where a matter is reported for which the Council has no enforcement powers, the Council will signpost people to the relevant body where further assistance may be provided, when possible. A list of useful contacts can be found at the end of this plan. The most common non planning related reports are:

- **Land ownership/boundary disputes, trespass, breaches of covenants on title deeds, Party Wall concerns.**

These matters are civil and should be pursued elsewhere, often needing to seek private legal advice when necessary.

- **Loss of property value, loss of view and business competition**

These are not material planning considerations. The planning system protects the wider public interest and not the interests of individuals.

- **Building Regulations Matters/Dangerous Structures**

These matters are investigated by the shared [Central Building Control Service](#) phone: 0300 111 8035. The [out of hours](#) emergency number is (01527) 64252 extension 3316 and is manned by Redditch Borough Council.

- **Health and Safety Matters**

The [Health and Safety Executive](#) is responsible for enforcing H&S at various workplaces including factories, farms, **building sites**, schools and colleges, fairgrounds, etc.

4 ENFORCEMENT OBJECTIVES & PRIORITIES

4.1 North Warwickshire Borough Council currently receives more than two hundred registerable planning enforcement complaints and five hundred planning applications each year. Conditions which are attached to planning approvals also require monitoring and further action if they are not adhered to.

4.2 Unfortunately, it is not possible to investigate all complaints immediately. Each case will thus be prioritised, dependant on the nature of the alleged breach and the level of potential planning harm it creates.

4.3 Investigations can often be lengthy, technical, and legally complex, particularly if formal action is required. They can be reliant on relevant case-law as well as planning appeal decisions. Due to this workload and the limited resources available, it is necessary to prioritise cases and resources in the investigation of cases. The following objectives will be followed in all investigations:

- To communicate both verbally and in writing, in clear terms, and to avoid jargon wherever possible.
- To focus on remedying the breach of planning control without formal action, either by negotiating an alternative solution, for example through voluntary cessation/alteration of the breach, or by the submission of a retrospective planning application, where possible.
- To take timely and proportionate action where it is necessary to do so, and only when the negotiation process has failed, (where that is applicable and/or appropriate).
- To continue to develop joint working with both internal and external bodies.
- To ensure that all officers treat everyone involved in the process, in a respectful, equitable, impartial, fair, and transparent way.
- To update and inform complainants of the progress of their case including the outcome.

- To provide clear information regarding the enforcement function and processes on platforms which are easily accessible to a wider variety of people and organisations.
- Whenever possible, electronic methods of communication will be used to communicate with all parties, except where the relevant legislation states otherwise (e.g.- formal notices) or is not applicable to a party involved in the investigation.

4.4 When reports are received alleging unauthorised developments, they will be prioritised. However, a case may change priority as the investigation progresses depending on the nature of the breach.

4.5 All reports received with the requisite information as set out in Sections 5.3 and 5.6 will be registered and acknowledged **within 3 working days**. These will then be actioned in accordance with timescales dependent on the priority level as detailed 4.6 to 4.8.

4.6 **Category 1 - High Priority**

This applies where the alleged breach is a serious threat to or where there is likely to be a substantial detrimental effect in planning terms to the built or natural environment.

With high priority cases a member of the enforcement team will action² the case as soon as possible (usually within one working day) following its acknowledgement.

High priority cases will include reports referring to:

- Unauthorised works to Listed Buildings or impact on their setting.
- Unauthorised works to protected trees (protected by TPO or in Conservation Area).
- Demolition of non-listed building in a Conservation Area.
- Unauthorised large scale works within the Green Belt.
- Breaches of control approaching time limit immunity (that cause serious harm).

² Action means – review the relevant planning history, initiate first contact with interested parties (offending), make arrangements to visit the site or conduct a site visit (if necessary).

- Existing cases subject to a formal notice, relevant appeal decisions or court action.

4.7 **Category 2 - Medium Priority**

Cases where operational development or changes of use of land and/or buildings potentially cause harm to the amenity within the immediate or surrounding area of the site. These could include non-compliance with planning conditions.

With medium priority cases a member of the enforcement team will action² the case within 10 working days following its acknowledgement.

Medium priority cases will include reports referring to:

- Unauthorised developments contrary to Local Plan policies.
- Unauthorised developments with significant public interest and causing demonstrable harm to a residential area.
- Breach of planning conditions while the development is under construction/newly completed.
- Large scale unauthorised advertisement campaigns in Conservation Areas.

4.8 **Category 3 - Lower Priority**

Cases that are unlikely to cause any significant, immediate, or irreversible planning harm. These matters are likely to be technical breaches of planning control that could be resolved with the submission of a retrospective application to control the development with conditions, or small modifications to bring the development in line with planning policy or voluntary remedial action by the relevant party.

With lower priority cases a member of the enforcement team will action² the case within 15 working days following its acknowledgement.

Lower priority cases will include reports referring to:

- Minor breaches of permitted development rights (GPDO 2015 as amended).
- Minor householder developments (extensions, outbuildings, fences).

- Unauthorised advertisements (not detailed in category 2).
- Untidy land (Section 215 matters).
- Any other breach not included in other priority categories.

5 HOW TO REPORT A BREACH OF PLANNING CONTROL

5.1 **Anonymous reports will not be accepted unless they refer to a High Priority breach or other exceptional circumstances apply.**

5.2 The Council will expect all reports to be made in writing so that it gives the reporter the opportunity to fully consider their concerns and detail how the alleged breach is impacting on them.

5.3 The preferred option will be via the report form on our website. This guides the reporter through the process and encourage them to focus on the planning matters and not issues that the planning department have no control over.

5.4 Report a breach of planning control online:

[Report a Breach | Planning Enforcement | North Warwickshire Borough Council](#)

5.5 Alternatively,

- Email the team at planningenforcement@northwarks.gov.uk
- By letter addressed to the Planning Enforcement Team at North Warwickshire Borough Council, The Council House, South Street, Atherstone, CV9 1DE.
- By speaking to a Duty Officer (9am – 1pm) on (01827) 715341, however you will still need to follow this call up in writing by one of the above methods.
- Report via a Borough or Parish Councillor or the Clerk to your Parish Council. Details of your Councillors and Parish Council, can be found on the North Warwickshire Council website [Find My Councillor](#). However, updates on the case will only be given to the councillor/parish council and not to the member of the public dependant on the circumstances of the case.

5.6 So that we can investigate your report, we require as much information as possible. If the following details are not provided, then we may not be able to register and deal with your report at all, or in a timely way.

- The name, address, telephone number and e-mail address of the reporter.
- The precise location/address of alleged breach.

- A description of the alleged breach
- What impact the alleged unauthorised development or use, is having on you and any difficulties the problem is causing.
- How long the use has been taking place/ or the development has been in situ.

5.7 All reporters contact details are kept confidential. Any data supplied to North Warwickshire Borough Council relating to any alleged breach, are held securely, in line with the UK GDPR's stringent requirements and protocols. These details will only be provided in response to a request made under the Freedom of Information Act to obtain them and if it is in the public interest to do so taking account of any potential harm to the data subject and any detriment to the ongoing investigation. Most commonly enforcement investigations are exempt from the freedom of information process. The Council will also maintain the confidentiality of information provided by any reporter, which may be likely to reveal the identity of who made the complaint. However, we cannot stop an offending party from making their own assumptions as to who made the report.

5.8 However please note that should the matter progress to court proceedings, witness statements may be required from the original reporter depending on the nature of the breach and other evidence obtained. Legal advice will be taken on how this is progressed as it will depend on the circumstances of the individual case. The reporter will be kept informed in these situations.

6 THE INVESTIGATION PROCESS

- 6.1 Due to the nature and legal complexity of some of the reports received, the enforcement process is very often a lengthy procedure. It is not always possible to give an accurate or average length of time from the receipt of a report to a resolution. As a guideline however, we will aim to update the reporter within six weeks of the date of acknowledgement as to how the case is progressing. This is of course, dependent upon the team's workload and other factors which may impact on officer's time. However, we recognise that communication with the reporters is important, and we will endeavour to keep all interested parties updated of progress at key stages in the investigation.
- 6.2 It is important to note that formal action **is not taken against all** breaches of planning control. Such action is entirely at the discretion of the Council having taken all material planning considerations into account.
- 6.3 In some cases, it maybe that a party does not agree with the final decision reached as part of the investigation. However, there is no third-party right of appeal against this decision, other than with certain formal notices when an interested party served with a notice can appeal to the Planning Inspectorate.
- 6.4 The Council has a [formal complaints](#) procedure which you can use if you are dissatisfied about the enforcement service. This process will look at how the investigation has been undertaken and is not a process which has the purpose of changing the decision as to whether to take formal action or not.
- 6.5 **North Warwickshire Borough Council will not tolerate either physical or verbal abuse towards its Officers. Should it be necessary, the Council will use legal action to prevent and deal with such abuse.**

7 REPORTERS – What to Expect

- 7.1 Once a valid report has been received it is logged with a unique case reference number. It is then allocated a priority level as detailed above and assigned to an enforcement officer for the investigation to commence.
- 7.2 The reporter will be sent an acknowledgment letter within three working days of receipt, detailing the case officer and their contact information.
- 7.3 The enforcement officer will first establish the facts relating to the alleged breach by investigating the planning and enforcement history, the relevant legislation, and any previous relevant correspondence. If necessary, the investigating officer will liaise with colleagues in other services within the Council and any external bodies.
- 7.4 A site visit is then usually made particularly if the initial desk top research shows that the issue reported does not have planning permission and may be unauthorised. Contact will be made with the site to arrange a site visit or if necessary, rights of entry can be utilised when we are unable to contact the relevant party, or where the nature of the allegation warrants it.
- 7.5 Following a site visit (if necessary) the enforcement officer will have a better understanding of the alleged breach and will then consider what action is required to remedy any associated planning harm. The reporter will be updated when a plan of action has been agreed with the offending party. This can take several weeks if remedial works are required, or a retrospective application is required. This is because these matters often require third party involvement whether from a builder/contractor or a planning agent. Given the third parties capacity is often outside the control of the offending party a degree of flexibility is required when setting timescales for remedial actions.

8 ALLEGED OFFENDER(S) – What to Expect

- 8.1 It can be a concerning time when in receipt of communication from the planning enforcement team, but it is important to remember that our primary goal is to remedy the planning harm caused by any such unauthorised development and not to punish the individual for breaching planning laws. Notwithstanding, certain offences, mainly as detailed as high priority cases can be a criminal offence and the Council will pursue formal action when deliberate/repeated offences can be evidenced.
- 8.2 The best course of action after receiving a letter is to contact the relevant enforcement officer as soon as possible. Further detail can then be provided about the alleged breach and ways in which any breach could be remedied. In most cases the enforcement officer will likely need to arrange a site visit to verify the allegation and to collect the required evidence.
- 8.3 Site visits will usually be pre-arranged. During the visit photographs and measurements will be taken where necessary and further guidance can be given and options discussed about how to remedy the harm, firstly without needing to use formal action. Any guidance provided on site will be at an informal level and subject to change if further relevant information or evidence is obtained. However, following the initial site visit the enforcement officer will confirm in writing – usually within 10 working days of the visit – detailing various options to remedy the planning harm, as detailed below.
- 8.4 **IMPORTANT!** – in the event of no response to requests for contact, the breakdown of communication or where the seriousness of the alleged offence warrants it, enforcement officer's benefit from Rights of Entry powers (**without a warrant**) as granted under section 196A of the Town and Country Planning Act 1990. However, when it is required to enter a dwelling house (the building not the land) 24-hours prior notice is required. The initial contact letter to the offender forms this prior notice.

9 MAIN OUTCOMES OF INVESTIGATION

9.1 The following list, whilst not exhaustive, are the most common outcomes in a planning enforcement investigation:

9.2 No breach of planning control.

In cases where there is no breach of planning control, the case will be closed swiftly, and parties informed.

Where the allegation may not be related to planning matters, but another service may be able to provide further assistance, the reporter will be signposted to the most appropriate service.

9.3 Not expedient to take further action.

Where a breach of control is identified, but it considered as a minor or technical breach with limited impacts. It will most likely be deemed not expedient to take any further action or to invite a retrospective planning application. These cases will be closed, and the reporter notified accordingly.

There is no third-party right of appeal against this decision. The Council will have reached this conclusion in accordance with the National Planning Policy Framework. As detailed above enforcement action is discretionary and so the Council will act proportionately in investigating breaches of planning control and in determining any appropriate action.

9.4 Cases that require additional monitoring.

Sometimes, it is not possible to obtain the information regarding a breach of planning control by just one visit (e.g. – alleged commercial vehicle repairs from a residential property, breach of opening hours condition). Further information may need to be obtained from other sources, which may include the reporter. When further investigation has been completed, a decision will be taken either to close the case, due to insufficient information, or to take the matter further by way of formal action. I.E Planning Contravention Notice to obtain further evidence.

9.5 Retrospective Planning Application

If the unauthorised development or use may generally accord with national and local planning policies, a retrospective planning application submission may be suggested within a specified deadline. If an application is not submitted by the deadline set, then enforcement action may need to be considered. However, formal action will not be taken if it is not expedient, in the public interest or proportionate to do so.

If an invitation to submit a retrospective application is made, it **does not** guarantee that the application will be granted/approved, only that more formal consideration and public consultation is required. During the application process, alterations to the proposal may be required and appropriate conditions imposed to ensure any changes are made in a timely manner following an approval.

The enforcement investigation will usually go on hold whilst a retrospective application is being considered.

Depending on the nature of the breach, in the event of a refused retrospective application, more formal enforcement action is likely to take place subject to relevant appeal proceedings against the refused planning application.

9.6 Voluntary Remedial Action

If the unauthorised works are not considered acceptable, a time limited opportunity will be given to address the breach, by either the cessation of the unauthorised use or the removal/alteration of the unauthorised development. Failure to comply with this **one request** by the agreed deadline, may result in further action being taken in respect of the breach.

9.7 Formal Action

If the above options have been exhausted or do not apply, or the seriousness of the unauthorised development warrants it, formal action will be taken where it is expedient and in the public interest to do so.

In some cases, the Council may decide to take immediate formal action to stop the more serious breaches from continuing whilst it investigates the matter. This is normally through the serving of Temporary Stop Notices (which lasts for up to 56 days). The authority can then consider what further actions may be required.

9.8 Prosecution Proceedings

Unauthorised works to a Listed Building, works to trees which are the subject of a Tree Preservation Order (TPO) or in a Conservation Area and the display of an unauthorised advertisement **are criminal offences**. The Council will need to consider prosecution proceedings in these cases if alternative actions are not appropriate to remedy the harm.

Furthermore, and perhaps most importantly in enforcement proceedings, failure to comply with, or breaching a formal notice is also a criminal offence. **Breaching formal notices will not be tolerated and the Council will actively pursue prosecution in such matters, unless material circumstances indicate otherwise.**

10 DECISION MAKING

10.1 Decisions in respect of planning enforcement action will be taken by the Council's Planning and Development Board. However, the Board will only deal with the most significant cases and it has thus delegated decisions in the majority of matters to appropriate officer under the [Council's Constitution](#).

10.2 Consequently, those matters referred to the Board for a decision will only usually involve:

- Whether, subject to the view of the Head of Legal Services as to whether there is sufficient evidence and it being in the public interest to do so, the Council considers the issue of prosecution proceedings.
- Taking Injunctive action
- Serving of a Stop Notice
- Commencement of Direct Action
- Serving of a Planning Enforcement Order
- Cases referred to it at the discretion of the Head of Development Control in consultation with the Chairman of the Board.

10.3 Initial Decisions

As indicated in the previous section, there are several decisions to be made within the enforcement process. Decisions involving whether a breach of planning control has occurred, the need for additional monitoring, issuing of a Planning Contravention Notice or Community Protection Warning Letter, advice on voluntary remedial action or submission of retrospective planning application will be taken by professional planning officers in consultation with the Head of Development Control and if appropriate, the Head of Legal Services.

10.4 Formal Action

Where a breach of planning control has been established, the expediency of subsequent planning enforcement action will be decided by those planning officers with advice taken from the Head of Legal Services, if appropriate. If it is found that it is not expedient to take formal enforcement action, then the reason for that will be set out in the case file. At this stage the matter may then be referred to another department or external agency, if warranted.

If it is found to be expedient, then the reasons will be set out in an officer's report which will conclude on the most appropriate action to be taken. This report will be circulated to the Chairman and Vice – Chairman of the Planning and Development Board together with the Planning Opposition Spokesperson and the Local Ward Members for where the breach is located. If, **within five working days** following notification by officers, any of these Members wishes the case to be referred to the Board for consideration, giving reasons why delegated powers should not be used, then that case will be reported to the next available Board meeting. If there is no such request, the action recommended will then be followed through under delegated powers. This approach replicates the process in the adopted [Scheme of Delegation](#) for the determination of planning and relation applications.

As a consequence, the issue of a Breach of Conditions Notice, Temporary Stop Notice, Planning Contravention Notice, Enforcement Notice, Listed Building Enforcement Notice, Section 215 Notice, Discontinuance Notice (advertisements), Community Protection Notice or a High Hedge Remedial Notice will normally be served under delegated powers.

11 TYPES OF FORMAL ACTION

Planning Legislation

11.1 Planning Contravention Notice

A planning contravention notice may be issued to allow the Council to require any information we need for enforcement purposes about any operations being carried out, any use of, or any activities being carried out on the land. They can be used to invite recipient(s) to respond constructively to the Council about how any suspected breach of planning control may be satisfactorily remedied.

11.2 Enforcement Notice/Listed Building Enforcement Notice

These are served where the Council is satisfied that a breach of planning control has occurred, and it is expedient to issue a notice because of the harm caused, considering the provisions of the Local Plan and any other material considerations.

Copies of the Notice are served on all persons with an interest in the land. The Notice takes 28 days before it comes into effect. It sets out the requirements needed to remedy the breach and a compliance period. During this 28-day period, before it comes into effect, recipients of the Notice can appeal to the Secretary of State. Details of how to appeal will accompany the notice, a valid appeal suspends the Notice requirements until the determination of that appeal. Non-compliance with an extant Notice is a criminal offence.

11.3 Enforcement Warning Notice

An enforcement warning notice (EWN) formalises the process for a local planning authority to invite a retrospective planning application. Previously these invitations were informally requested. EWN's can only be served when there is reasonable prospect of the unauthorised development being acceptable in planning terms, although it does not guarantee that retrospective permission will be granted.

It is not an offence if no application is submitted after a warning notice is issued. The authority will have to consider the expediency if further formal action is needed.

However, if the unauthorised development was approaching time limit³ immunity, a EWN acts as taking enforcement action in accordance with section 171B (4b) and it potential grants the authority another four years to consider further enforcement action.

11.4 **Breach of Condition Notice**

This Notice can be served on the developer or occupier when they do not comply with conditions attached to a planning permission. There is no right of appeal to the Secretary of State against a breach of condition notice. The validity of a breach of condition notice, and the propriety of the local planning authority's decision to serve a breach of condition notice, may be challenged by application to the High Court for judicial review.

11.5 **Temporary Stop Notice (including on Listed Buildings)**

A temporary stop notice is a powerful enforcement tool. This allows action to be taken very quickly to address confirmed breaches of planning control and can require activities to cease **immediately**. A Temporary Stop Notice can be served independently of any other notice, unlike a Stop Notice. However, a Temporary Stop Notice can only last for a maximum of 56 days after it is displayed on site and can only be used once. It gives the Council time to investigate the suspected breach of planning control without further harm being caused. It is an offence not to comply with this Notice.

There is no right of appeal to the Secretary of State against the prohibitions in a temporary stop notice. The validity of a temporary stop notice and the propriety of the local planning authority's decision to issue a temporary stop notice, may be challenged by application to the High Court for judicial review.

Since April 2024 Listed Building Temporary Stop Notices have been introduced by the Levelling-up and Regeneration Act 2023. They are broadly the same a planning temporary stop notice. However, they are specifically for when there has been a breach of Listed Building control/matter in accordance with section 9 (1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

³ [Town and Country Planning Act 1990 \(Section 171B\)](#)

11.6 **Stop Notice**

This Notice is served where very serious and irreparable harm is being caused by a breach of planning control. The notice can prohibit any or all the activities which comprise the alleged breaches specified in the related enforcement notice. A stop notice **cannot** be served independently of an enforcement notice. The Stop Notice comes into effect no less than 3 days or no later than 28 days after the date which the notice is served. There is no right of appeal to the Secretary of State against the prohibitions in a stop notice. The validity of a stop notice and the propriety of the local planning authority's decision to issue a notice, may be challenged by application to the High Court for judicial review. Even if an appeal is lodged against an enforcement notice, non-compliance with the Stop Notice is an offence. The issue of a Stop Notice carries the risk that the Council must pay compensation should the accompanying Enforcement Notice be quashed at appeal.

11.7 **Injunction**

Following legal advice, Injunctive proceedings will only be considered for the most serious breaches. An Injunction application is dealt with by the High Court or County Court. This is the only action that can be taken against an apprehended breach of planning control (i.e.- a breach that is likely to occur). However, proceedings for an injunction are the most serious enforcement action that a local planning authority can take because if a person fails to comply with an injunction they can be committed to prison for contempt of court. In these circumstances a local planning authority should generally only apply for an injunction as a last resort and only if there have been persistent breaches of planning control over long period and/or other enforcement options have been, or would be, ineffective. The Court is likely to expect the local planning authority to explain its reasons on this issue.

11.8 **Planning Enforcement Order**

This form of action can be taken where a person deliberately conceals unauthorised development, where the time limits for acting upon a breach, have passed. An application for a planning enforcement order is made to the Magistrates Court and if granted, enforcement action can still be taken against the breach which has previously been concealed. Planning enforcement orders can only be made where the developer has deliberately concealed the unauthorised development. In these circumstances, evidence that the developer has taken positive steps to conceal the unauthorised

development, rather than merely refraining from informing the local planning authority about it, will be required.

11.9 **Default Action**

Where an Enforcement Notice has not been complied with the Council can enter land to carry out the required works to secure compliance with the notice. There is no requirement to provide notice to the owners or occupiers of the land and anyone who wilfully obstructs the exercise of these powers is guilty of a criminal offence. Further, the Council will look to recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work. However this is often used as a last resort and on the most serious of cases due to the expenditure to the authority and the time for recovery of funds.

11.10 **Section 215 Notice**

This can be served when the condition of land or property is adversely affecting the amenity of the area. The Notice will require the owner/occupier to take necessary steps to remedy the condition of the land or property. Recipients of the Notice do have a right of appeal to a Magistrates Court. Non-compliance with the Notice is an offence. The Council may also use default powers to ensure the terms of the Notice are met.

11.11 **Unauthorised Advertisements**

The display of any unauthorised advertisements is a contravention of the Town and Country Planning (Control and Advertisements) (England) Regulations 2007 for which prosecution proceedings could be considered if it is in the interest of amenity to public safety. Where advertisements have been displayed with deemed consent, the Council may still require its removal by issuing a Discontinuance Notice upon which there is a right of appeal. A Discontinuance Notice can only be issued when there is substantial loss of amenity or if there is a danger to members of the public. Other notices can be used to remove smaller breaches of advertisement control.

11.12 **Prosecution**

Failure to comply with the majority of the above statutory notices is a **criminal offence**. Prosecution is the most common form of initial legal action in these circumstances. The Council will always consider whether there is clear evidence to prosecute for failure to comply with such a notice and whether it is in the public interest to do so.

Should it be in the public interest, further legal action will be actively pursued against those who appear to blatantly disregard the notice.

Anti-Social Behaviour & Crime and Policing Legislation

11.13 Community Protection Notice

The issue of this Notice can be considered in cases where the unauthorised activity is having an adverse effect on the quality of life of those in the locality; is persistent or continuing in nature, is unreasonable and causing nuisance or harm. This can be used for example where on street unauthorised vehicle repairs are taking place and is causing a detrimental effect on the wider community. It can also be used on cases where reports are received concerning untidy private land.

Prior to the service of a Community Protection Notice, it is necessary practice to issue a Community Protection Warning letter, advising of the problem behaviour or activity and that further action will be considered should the unauthorised activity continue. Both the notice and warning letter can include the requirement to stop doing specific things, a requirement to do specified things and/or a requirement to take reasonable steps to achieve specified results.

If the terms of the warning letter are not complied with, a Notice can be served having due regard to the Equalities Act 2010. If the Notice is not complied with then it is an offence, upon which there are fines. There is a right of appeal within 21 days of issue. There are other powers available relating to this legislation, should the Notice not be complied with, which include the issue of a fixed penalty notices, remedial action by the Council, obtaining a forfeiture order through courts and seizure of items that have been used in committing the offence.

11.14 High Hedge Remedial Notice

A high hedge remedial notice can require a hedge owner to carry out works to lower the height of the hedge to a specified height and then maintain the hedge so that it does not exceed a specified height. A remedial notice **cannot** require the removal of a hedge or works that by may cause its death or destruction. It's an offence to fail to do what a remedial notice requires. Such an offence is punishable with a fine of up to £1,000. Also, the council can enter the land and carry out the required work.

12 REVIEW & COMMENTS

- 12.1 The enforcement plan will be reviewed annually and updated when relevant changes in Local or National Planning Policy occurs.
- 12.2 An annual report, prepared by the Head of Development Control will be referred to the Planning and Development Board. This report will identify formal enforcement action taken in the preceding year both under delegated powers and decisions taken by the Board, together with its outcome or, where appropriate, the stage that has been reached in the process. The report will also summarise the performance of the enforcement service as set out in this Plan together with reviewing the need for any change.
- 12.3 North Warwickshire Borough Council is committed to provide a good quality of service in a fair, transparent, and consistent manner. However, it is likely that problems and difficulties may arise occasionally, and any issues relating to the enforcement service should be initially raised by contacting:

The Head of Development Control

Email: planningenforcement@northwarks.gov.uk

Writing: The Council House, South Street, Atherstone, CV9 1DE

**Last updated December 2024 following the publication of the updated National Planning Policy Framework December 2024.*

13 USEFUL CONTACT INFORMATION

North Warwickshire Borough Council Services

- Environmental/Public Health
[Public health | North Warwickshire \(northwarks.gov.uk\)](http://northwarks.gov.uk)
- Anti-Social Behaviour
[Reporting anti-social behaviour | Anti-social behaviour | North Warwickshire Borough Council](#)

Warwickshire County Council

- Highways & Waste Transfer
[Report it – Warwickshire County Council](#)
- Trading Standards
[Trading Standards – Warwickshire County Council](#)

Other External Bodies

- Party Wall Act
[The Party Wall Act - Explanatory Booklet \(GOV.UK\)](#)
- Land Registry (land ownership information)
[Search for land and property information - GOV.UK](#)
- Citizens Advice (Boundary Disputes)
[If you disagree with your neighbour about a wall or fence - Citizens Advice](#)
- Building Control (Shared Service) – Dangerous Structures
[Dangerous structures - Central Building Control Partnership \(centralbc.org.uk\)](http://centralbc.org.uk)
- Health and Safety Executive
[Tell us about a health and safety issue - Contact HSE](#)

Neighbouring Councils:

- ❖ Tamworth Borough Council
- ❖ Lichfield District Council
- ❖ Birmingham City Council
- ❖ Solihull Metropolitan Borough Council
- ❖ Nuneaton & Bedworth Borough Council
- ❖ Coventry City Council
- ❖ Hinckley & Bosworth Borough Council
- ❖ North West Leicestershire District Council