

# Planning Enforcement

A guide to the service available.



**Fair and effective planning enforcement is essential to ensure that you the public benefit from the quality of Wiltshire's natural and built environment.**

The council works hard to protect the local environment and quality of life for people living, working and visiting the area by providing an effective planning service.

Enforcing planning rules, where unauthorised development is causing significant harm is an important part of this process.

The aim of this leaflet is to provide you with an easy to use guide to how the enforcement service works.

Planning enforcement is a very complex area and we have tried to make this guide as easy to understand as possible. For more information on how the service works please refer to the council's planning enforcement policy, [www.wiltshire.gov.uk/planning-enforcement](http://www.wiltshire.gov.uk/planning-enforcement) or by asking for a hardcopy from one of the council's planning offices.

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

This could be building or engineering works, unauthorised change in use of land or the display of an unlawful advertisement. Other planning breaches include:

- unauthorised work to a listed building.
- unauthorised works to trees protected by a tree preservation order or trees in a conservation area.
- breach of conditions attached to a planning permission or listed building consent.
- unauthorised demolition in a conservation area.
- not building in accordance with the approved plans.
- failure to properly maintain land so that it adversely affects the amenity of the area.
- unauthorised engineering works, such as significant ground level changes.
- failure to comply with a section 106 legal agreement.

**Did you know the following are not normally planning breaches?**

- where development is 'permitted development' under the Town and Country Planning (General Permitted Development Order). Further information on what constitutes permitted development can be obtained at: [www.planningportal.gov.uk](http://www.planningportal.gov.uk)
- internal work to a non-listed Building.
- obstruction of a highway or public right of way.



- parking commercial vehicles on the highway in residential areas or on grass verges.
- parking a caravan within the residential boundary of a property, provided that it is not used as self contained accommodation.
- clearing land of overgrowth, bushes and trees, provided they are not subject to planning protection.
- operating a business from home where the residential use remains the primary use and there is no adverse impact on neighbours.
- boundary disputes are a private matter and cannot be controlled under planning legislation.
- a breach of deeds and covenants provided there is not a planning condition to prevent this.
- trespassing on land.
- health and safety issues.

### How can you notify us of a suspected breach of planning?

The planning enforcement service is concerned with resolving serious breaches of planning control where there is significant harm. Where it looks likely that a breach is occurring you can contact us by phone, letter, E-mail or fax.

Anyone contacting us by phone will normally be asked to put their complaint in writing. An enquiry form is also available on our website.

[www.wiltshire.gov.uk/planning-enforcement](http://www.wiltshire.gov.uk/planning-enforcement)

We will require your details and those of:

- The site address or location.
- What the development is.
- The times things are happening, if applicable.

Details of how to contact the council are set out at the end of this leaflet.

Please note that the council will not deal with anonymous complaints and unless government legislation dictates otherwise (in exceptional circumstances), we keep the names of all private enquirers confidential.

If you are worried about giving your name and address, you can contact your local division member who can lodge a complaint on your behalf.

### What happens to my enquiry?

After the council logs and acknowledges enquiries, cases are prioritised in accordance with the council's adopted planning enforcement strategy.

An officer will then normally visit the site to establish if a breach is occurring. If a breach exists, negotiations will then take place to try and ensure that any breach is resolved without recourse to formal action. The enquirer will be advised of the outcome of the investigation.

Whilst many of our investigations are resolved promptly, some can be quite time consuming as the council can be accused of acting unreasonably if it appears they

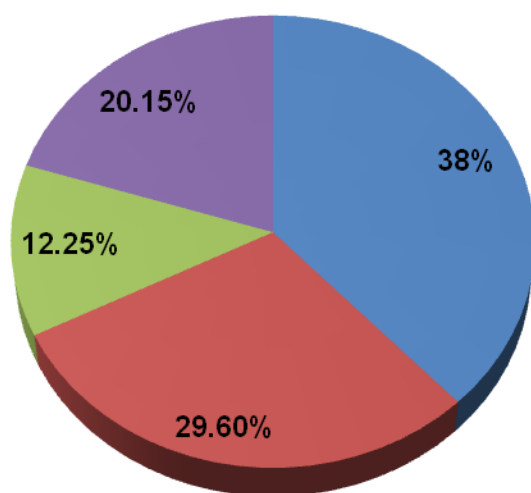
have been unwilling to explore 'all options' before taking formal action. If you would like an update on progress this is best done by telephoning the case officer.

If unauthorised development causes no 'demonstrable harm' (i.e. if planning permission had been sought and it would almost certainly have been granted without conditions) then enforcement action is not appropriate.

Similarly, in some other cases it is not expedient to pursue enforcement as any harm may not be so serious as to justify formal action.

This chart illustrates how investigations are resolved in a typical year.

## Investigations



- Planning permission not required
- Breach of planning resolved
- Not expedient to pursue
- Cases still being worked on

Data taken from figures in the north hub for the year ending 2008

## Priorities

Different breaches can result in more harm than others. The council has to ensure that it targets resources at those that have the greatest impact. For example, knocking down substantial parts of a Listed Building will have a greater priority than someone erecting a short length of boundary fence.

The council's planning enforcement team priorities are as follows: -

The council has finite resources and to ensure they can be used in the most effective manner, enforcement cases are prioritised according to the seriousness of the harm caused by the breach.

### Priority 1

We aim to visit 80% of these sites within 24 hours of your enquiry being registered.

**Immediate threat to public safety, substantial damage to or loss of statutorily protected buildings, trees or areas.**

### Priority 2

We aim to visit 95% of these sites within 5 working days of your enquiry being registered.

**Adverse impact on protected areas and residential amenity. Breaches of conditions and legal agreements resulting in serious harm to neighbours, affected parties and/or the environment. Unlawful adverts in protected areas.**

**Unauthorised development where it is possible that the time for taking enforcement action could expire within the next 6 months.**

## Priority 3

We aim to visit 95% of these sites within 10 working days of your enquiry being registered.

**The breach is of a minor nature which does not cause immediate/long term harm or loss of amenity.**

**We also aim to:**

- **Register 95% of new enquiries within 3 working days of receipt.**
- **Respond to 95% of enquirers within 10 working days of initial site visit.**
- **Complete 80% of priority 1 cases to be within one year.**
- **Complete 80% of priority 2 & 3 cases within 6 months.**

Notes:

Protected buildings are listed buildings and unlisted buildings in Conservation Areas.

Protected trees are trees subject to a Tree Preservation Order, in a Conservation Area or protected by a condition of planning permission.

Protected areas include Conservation Areas, Historic parks and gardens, Area of Outstanding Natural Beauty, World Heritage Sites, The Green Belt, Sites of Special Scientific Interests, Special Areas of Conservation and land at high risk of flooding.

The priority afforded to the investigation may change following an initial site visit or at any other time during the investigation, if for example new information comes to light.

## Government guidance

'Paragraph 207 of the National Planning Policy Framework (2012)', sets out advice on how to deal with breaches of control and states that the action taken should be proportionate to the breach of control and that each case will be judged on its individual merits. Furthermore: -

- Planning legislation allows retrospective applications to be made.
- Development can be immune from enforcement action if it has been substantially complete for more than 4 years (10 years for a use or a breach of condition other than one relating to residential development).
- Enforcement action cannot be taken solely to 'regularise' development which does not have planning permission where permission would have been granted unconditionally.
- Taking enforcement action contrary to government advice can result in costs being awarded against the council at appeal.

Experience has shown that through effective negotiation, planning enforcement matters are usually capable of resolution without

resorting to formal enforcement action or prosecution.

Where a person has been served with an enforcement notice they may have the right to appeal against it to the Planning Inspectorate (a government executive agency). When an appeal is made, it suspends an enforcement notice until it has been determined. An appeal often takes many months to determine and the timing is outside the council's control.

## How to contact us

Good communication is essential, both when dealing with the party responsible for a breach of control and those reporting it.

**If you have any questions relating to planning enforcement please contact us on 0300 456 0114.**

**Visit our website: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)**

These notes are intended to help you to understand the processes the council needs to go through to enforce most of the complaints received. There is separate legislation that relates to carrying out works to a listed building without the necessary consent or deviating from or failing to discharge conditions attached to a consent. There are also different powers relating to the display of advertisements, works to protected trees and untidy land.

The council takes the enforcement of planning control very seriously and we hope that this leaflet gives you an understanding of our commitment regarding the expediency of pursuing enforcement action.