



PLANNING ENFORCEMENT Frequently Asked Questions

Below are a list of the most common asked questions of the Council when dealing with Members of the public in Planning Enforcement matters. Further advice and guidance on the planning enforcement process and how the Council will approach planning enforcement are set out in within the Local Enforcement Plan.

What is a breach of planning control?

A breach of planning control is defined within the Town and Country planning Act (section171A) and occurs when development has occurred without having the required planning permission or when the development is not being carried out in accordance with any of the imposed planning conditions.

This may include;

- Where something has been built without planning permission
- Alterations made without planning permission
- When the use of land or a building has altered without permission
- Works to Listed Buildings without the required consent
- Installation of unauthorised advertisements
- Works to trees protected by Tree Preservation Orders (TPO); trees in Conservation Areas and rural agricultural hedgerows
- Where conditions attached to planning approvals have not been complied with
- Where limitations or conditions which are set out within the General Permitted Development Order have been followed.
- Where the poor condition of land is impacting on the visual amenities of the wider area.

Are there any aspects which the Planning Enforcement Section cannot investigate?

Yes, there are often many aspects which cannot be considered under planning enforcement, these may often relate to aspects which are civil matters or can be addresses by legislation covered by other Council departments. These can include;

- Neighbour disputes (these are a civil matter and you may need to seek your own legal advice)
- Land boundaries or ownership disputes (these are a civil matter and you may need to seek your own legal advice)
- Deeds of covenant issues (these are a civil matter and you may need to seek your own legal advice)
- Works to party walls (these are a civil matter and you may need to seek your own legal advice)
- Use of / development on highways or pavements. (This falls under highway legislation, please contact either the police or the Council's Care For Your Area team)
- Dangerous structures. (This falls under the Buildings Act please contact the Building Control section of the Council)
- Parking of commercial vehicles on the highway, even in residential areas. (If this is causing an obstruction it is a police matter)
- Parking a caravan within the residential boundary of a property provided that it is not being used as permanent living accommodation.
- Internal alterations to houses (unless a listed building or creating a separate flat)

How can I report a breach of planning control?

All planning enforcement requests must be submitted in writing, this helps us to maintain a clear audit trail and to help prevent any malicious enquiries.

The Council has an online form where such breaches can be reported. Alternatively you can report a planning breach by either e-mail or letter, but the following mandatory information will be required.

- Name
- Address
- Telephone no
- Email address
- Address of breach of planning control inc. Stockton Borough Postcode
- Nature of breach
- How it is affecting you

We will **not** investigate any breach of planning control without this necessary information, but be assured that the details of anyone reporting a breach of planning control will remain confidential and personal details will not be shared.

This level of information is required to help us make our initial investigations, by providing as much information as possible we can determine whether or not a breach of planning control has occurred in a timely manner.

You may wish to check the planning history of the premises prior to reporting a breach of control, in case planning permission has already been granted or there are planning applications pending. You can do this via the Council's public access website.

Is it against the law to breach planning control?

It is not necessarily a criminal offence to carry out development without planning permission. However, there can be significant risks involved in doing so as it cannot be assumed that retrospective planning permission will always be granted.

If a development involves unauthorised advertisements, works to protected trees or listed buildings, or if a formal Planning Enforcement notice has been served and it has not been complied with, then a Criminal Offense may have occurred and the Council may seek to take all necessary legal action.

Remedial works may be required and the property owner/developer will be liable for the full extent of any associated costs. In addition any breach of planning control may show as part of a property search should you wish to sell your property in the future.

Does the Council have the right to enter onto my land?

The Council has legal powers to enter onto your land for enforcement purposes, where it has reasonable grounds to do so. Typically this will be to investigate and gather information about any alleged breach of planning control or whether any previous requirements of planning enforcement action have been complied with.

When should enforcement action be taken?

To ensure that public confidence in the planning system is maintained, effective enforcement is necessary. It is at the Council's discretion as to whether or not they take planning enforcement action and in making any decision as to whether it is necessary or expedient to take action, it must consider the requirements of the development plan as well other material considerations.

What options are available to local planning authority in considering enforcement action?

In considering whether or not to take planning enforcement action the Council has a number of options available. These range from deciding no action is required through to seeking an injunction in extreme cases. These options are explained in further detail within the Council's Local Enforcement Plan.

Are there any limitations on when planning enforcement action can be taken?

Yes, unauthorised developments often become immune from enforcement if no action is taken within either;

- 4 years of substantial completion for operational development (i.e. structural alterations/construction)
- 4 years for an unauthorised change of use to a single dwellinghouse
- 10 years for any other breach of planning control (such as changes of use or breaches of condition).

However there are certain circumstances where the above time limits do not prevent enforcement action being taken, for example, where further enforcement action is required because previous remedial work is defective or where a person has deliberately concealed a breach of planning control.

What if a breach of planning control has occurred to a listed building?

Although they are broadly similar types of legislation there are some important differences where a breach of control relates to a listed building. Most importantly carrying out unauthorised work or the unauthorised demolition of a listed structure, is a criminal offence regardless of whether or not an enforcement notice has first been issued.

In addition there are no time-limits for issuing listed building enforcement notices and listed building consent and planning permission for relevant demolition are not granted retrospectively.