



Planning Enforcement Protocol

**Effectiveness of Council Enforcement Activity Working Group
18 March 2019**



The purpose of planning enforcement – Key Principles:

- ▶ Planning law – control the development and use of land and buildings in the public interest.
- ▶ Not intended to protect the private interests of one person against the activities of another.
- ▶ Carrying out such development without planning permission is not a criminal offence.
- ▶ A measured and proportionate response is required.
- ▶ Where serious **harm** occurs, the Council will take firm action quickly.



Issues to consider when investigating alleged breaches:

- ▶ Does the breach of control unacceptably affect the quality of life? – *Enforcement action should only be taken when it is necessary, expedient and in the public interest to do so.*
- ▶ Action should not be taken just because development has been undertaken without planning permission. – *There are no extra sanctions or penalties that can be applied in such circumstances*
- ▶ The Council does not always have to take action – *BUT the particular circumstances of the case will always be considered.*
- ▶ We have a high caseload that cuts across every aspect of planning and operate with limited resources. – *We therefore must have a way of prioritising our work.*



How we define “Harm”

- ▶ Direct noise, nuisance or disturbance from source
- ▶ In-direct danger and disturbance e.g. traffic problems
- ▶ Impact on amenity – Loss of privacy and impact on outlook, overshadowing and loss of natural light etc.
- ▶ Impact on visual amenity e.g. poor design/inappropriate materials/neglected/untidy areas
- ▶ Loss/damage to of protected trees
- ▶ Loss/damage to Heritage assets
- ▶ Risk of pollution that affects people and/or the natural environment
- ▶ Developments that undermine Planning Policy



Our Priority Schedule

- ▶ **Priority A**
 - when irreversible and serious damage to the environment or public amenity would result

- ▶ **Priority B**
 - when less immediate but still potentially serious and harmful to the environment or public amenity

- ▶ **Priority C**
 - when less likely to cause serious or lasting harm to the environment or public amenity

- ▶ **Priority D**
 - When unlikely to cause serious or lasting harm to the environment or public amenity



Key Performance Targets:

Priority A Cases Respond to 100% of cases within 1 working day	Priority B Cases Respond to 90% of cases within 15 working days
Priority C Cases Respond to 85% of cases within 26 working days	Priority D Cases Respond to 80% of cases within 40 working days



Other Performance Targets

Acknowledge 100% of all complaints within 5 working days

Endeavour to resolve at least 75% of all cases without the need to take formal Enforcement Action

Action at least 75% of all cases requiring formal Enforcement Action within 13 weeks

Generate at least £25,000 from retrospective planning applications where this will regularise a breach in control



Powers Available to the Council

- ▶ Main approach is to negotiate a resolution without the need to take formal enforcement action:
 - Most cases can be resolved by negotiation
 - Huge cost savings to the Council (£10–30K per case)+ /–
 - Fee generating
- ▶ Planning Contravention Notice (PCN)
- ▶ Enforcement / Breach of Condition Notice
- ▶ Stop Notice
- ▶ Injunction
- ▶ Prosecution
- ▶ **Recovery** – Charges on Land / Proceeds of Crime



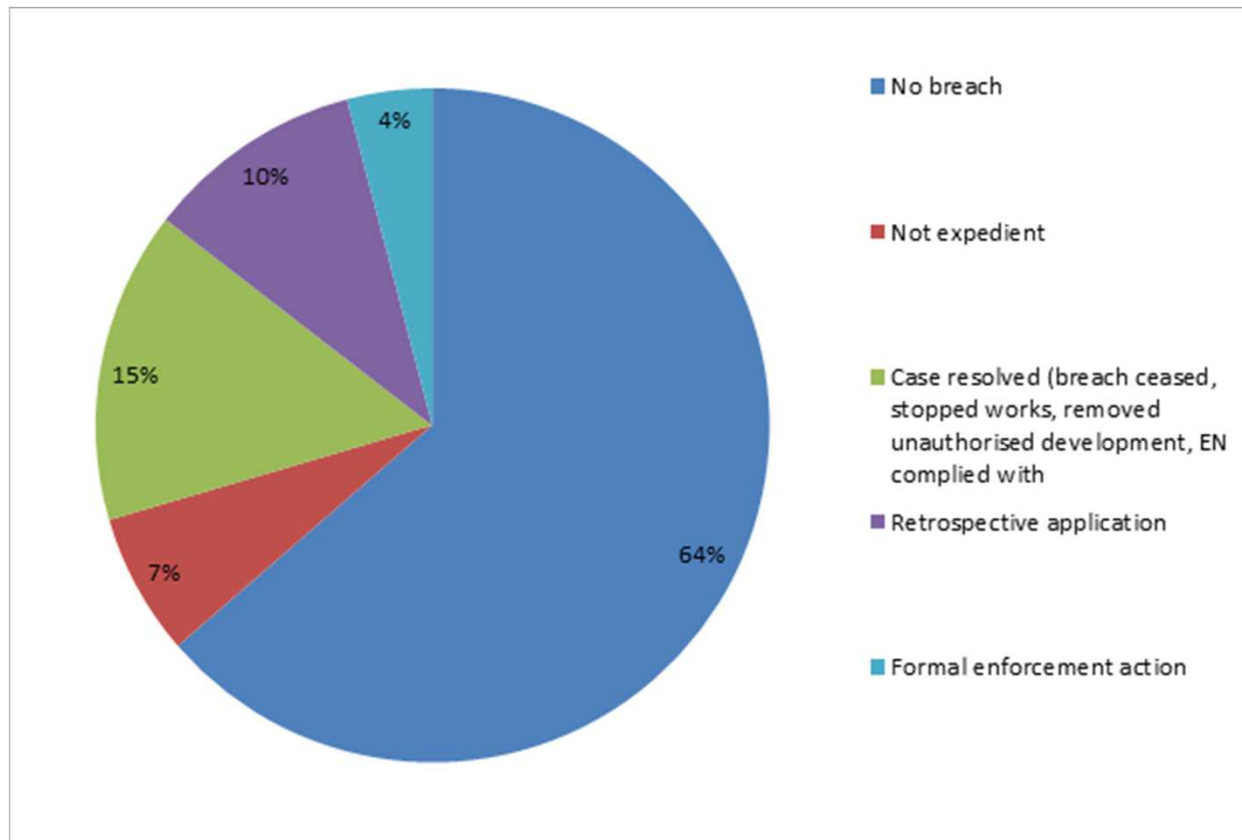
How cases are deemed to be resolved after investigation:

- ▶ A breach in planning control is deemed NOT to have occurred.
- ▶ Reach the conclusion that it is NOT expedient to take formal enforcement action.
- ▶ The offending party DISCONTINUES the breach and makes good the land by negotiation.
- ▶ The offending party DISCONTINUES the breach voluntarily during investigation.
- ▶ The offending party makes a RETROSPECTIVE planning application to regularise the breach
- ▶ Formal enforcement ACTION is taken



Cases resolved (01.11.18 – 31.01.19)

220 complaints closed in this period:



Reporting a potential breach

- ▶ Clearly defined procedure
- ▶ Set out the information we need to assist the investigation:
 - Name and address of complainant
 - What is happening
 - When is it happening
 - Evidence collected
 - How is it impacting on them
 - What they want us to do about it
- ▶ Make clear we don't respond to anonymous complaints
- ▶ Treat complaints in strict confidence
- ▶ Make clear how we will communicate with complainants going forward



Conclusions

- ▶ Be clear on the critical tests of Enforcement
- ▶ Understand the effects of unauthorised development – keep in perspective!
- ▶ Understand the range of powers available and when to use them
- ▶ Resources and skills – realistic targets
- ▶ Make it clear on how to report potential breaches and how we will respond
- ▶ Prioritise the workload based on harm
- ▶ Communicate with stakeholders



End of Presentation

Questions?

