NORTHAMPTON
LOCAL
ENFORCEMENT
PLAN
NORTHAMPTON LOCAL ENFORCEMENT PLAN

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1.0 Introduction

1.1 This Local Enforcement Plan for Northampton is produced by the Council in accordance with, and to directly reflect, the aims and objectives of the National Planning Policy Framework issued by the Government in March 2012 and is intended to help the community to get the best out of the Council’s Planning Enforcement service. It sets out the main service areas and explains how Northampton Borough Council carries out its enforcement activities in accordance with guidance on planning enforcement contained within the National Planning Policy Framework issued by Central Government.

1.2 The Council exists to serve you and protect the environment. 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.

1.3 From the information given 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 service, we hope that Council Officers can rectify any problems or explain why we cannot meet your expectations.

2.0 Is Planning Permission Required?

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

2.2 Certain types of building works or changes of use (development) are defined as ‘permitted development’ this means that 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 (As amended). Help in understanding ‘permitted development’ can be found in booklets published by the Department for Communities and Local Government [DCLG] and are available from the Council offices at The Guildhall and as a downloadable document on line at the Planning Portal web site at www.planningportal.gov.uk
2.3 In the case of Listed Buildings, Conservation Areas and “Article 4”, Directions, special provisions may be in place locally and it is always best to check with the Council on such matters. A Council Planning Officer is available via a Duty Rota at the Council’s Planning Reception in the Guildhall during normal office hours to assist you.

2.4 The Council can also take away permitted development rights via a condition attached to a specific planning permission for a property and by issuing “Article 4” Directions which affect a particular area. This is particularly important when considering houses in multiple occupation, as a significant part of the Borough is affected by an Article 4 Direction removing permitted development rights for change of use of a family home to Class C4 (Houses in Multiple Occupation).

3.0 What do we mean by Planning Enforcement?

3.1 Sometimes development is carried out without planning permission or is not carried out exactly in accordance with the detailed plans or conditions which have been approved by the Council.

3.2 Cases such as these can sometimes cause serious harm to the way in which people live or to the environment. A key objective of the Planning Enforcement Service is that harmful activities are dealt with effectively where it is expedient to do so. However, it is important to note that any action taken by the Council to rectify a breach of planning control must be proportionate and carried out in a fair, balanced and impartial way.

Other matters which can be considered for planning enforcement include:

- Unauthorised display of advertisements.
- Unauthorised works to protected trees (both individual and groups of trees).
- Unauthorised material change of use to land or buildings which lead to problems with residential amenity or highway safety.
- Unauthorised work to listed buildings (including internal works).
- Unauthorised demolition of certain buildings within a Conservation Area.
- Works to certain sized trees within a Conservation Area.
- Land that is in such a poor or untidy condition that it adversely affects the amenity of the area.

The term used to describe such cases is, ‘breach of planning control.’
4.0 What is the purpose of Planning Enforcement Action?

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

4.2 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 and these applications, like non retrospective applications, are dealt with on their individual merits having regard to the prevailing development plan policies and any other material planning considerations. It should also be noted that there are no penalties for applying for planning permission retrospectively. However, where serious harm is being caused the Council will seek to take firm action quickly.

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

- The Council must decide whether the breach of control unacceptably affects amenity.
- Action cannot be taken just because development has started without planning permission.
- The Council does not always have to take action, the particular circumstances of each case must always be considered individually on its own merits. If it is not considered expedient to do so the Council, when appropriate, will not take formal action.
- It is not normal to take action against minor breaches of Planning Control that cause no real harm.
- Any action the Council takes must be proportionate to the problem perceived.

However:

- Enforcement action will be taken quickly when it is necessary and is considered harmful and expedient to do so. All enforcement action will be carried out in a fair, impartial and balanced way.
5.0 **What is ‘harm?’**

5.1 Harm resulting from a breach of planning control can manifest itself in a variety of forms. For instance, although not exhaustive, it could mean harm to:

- amenity or highway safety,
- noise nuisance,
- loss of daylight or privacy,
- danger from increased traffic in certain circumstances.
- unauthorised work a listed building,
- demolition within a Conservation Area
- 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.

5.2 ‘Harm’ in the planning sense would **not** include:

- loss of value to a property, (however, the reason for the loss of value may be a planning consideration)
- competition to another business,
- loss of an individual’s view, encroachment or trespass onto someone else’s land.
- boundary disputes between owners of adjoining land.
- use of part of a residential dwellinghouse for business purposes which does not impact on the locality.

These issues are private matters between the parties concerned and you may wish to take private legal advice from a Solicitor.

6.0 **How to make a Planning Enforcement Complaint**

6.1 Anyone who believes that a breach of planning control has occurred can make a complaint.

6.2 Please be prepared to identify yourself so that your complaint may be investigated. It is generally not possible to investigate anonymous complaints due to lack of witnesses or evidence and also to avoid unnecessary worry and upset from malicious or unjustified complaints. However, any allegations of a serious or dangerous nature will be investigated initially for assessment. Where a retrospective application for permission is made to regularise unauthorised development, all statutory consultations would be made and the complainant would also be consulted if requested.
7.0 Will my Complaint be Confidential?

7.1 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/or acting as a witness at an appeal or in Court. The Council’s Enforcement Officer will explain what may be required in these cases. In the case of ongoing investigations or personal details there are provisions for information to be exempt from disclosure under the Freedom of Information Act (2000).

7.2 Personal details are also exempt from disclosure to anyone other than the complainant under the Data Protection Act (1998) and under Article 8 of the Human Rights Act (1998). However, personal details may be made available as part of criminal investigations or judicial reviews.

7.3 In certain cases it may not be possible to follow up a complaint without disclosing who the complainant is. The Council’s Enforcement Officer will contact you if this is the case and before any personal details are released.

8.0 What we need you to do if you wish to make a complaint.

8.1 If you are concerned about building work, a change of use, or the condition of a property, you can put your complaint in writing to the Planning Enforcement Section at The Guildhall, St Giles Square, Northampton, NN1 1DE or by email to planningenforcement@northampton.gov.uk or by contacting the planning department by telephone via the Council’s main switchboard.

8.2 You should give as much detail as possible and provide a sketch plan identifying the location of the site if possible. State when and where you are available for interview, including a daytime telephone number.

8.3 Once a breach of control has been confirmed, you may be asked to make a note of your observations and keep a log or diary of any relevant activities. It is particularly useful to note times, dates, names, addresses, telephone numbers and registration details of any vehicles involved.
8.4 The names and addresses of any other witnesses who may support your case would also be useful but you should of course do this with their agreement only.

8.5 In cases of urgency you can telephone the Council's Planning Enforcement Team or duty Planning Officer via the Council’s main switchboard and give initial details. You can also email planningenforcement@northampton.gov.uk

8.6 You can also raise your complaint with your Ward Councillor who will contact the relevant department of the Council on your behalf.

9.0 What action can the Council take?

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

9.2 Where a breach of planning control has taken place the Council will then make an assessment of the harm. If the unauthorised development is considered harmful then 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 are necessary to be taken 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. However, it should be noted that any subsequent grant of planning permission may render the development acceptable with the imposition of conditions.

9.3 In the most serious of cases, the Council may also consider serving a temporary or permanent Stop Notice or may apply to Court for an Injunction to prevent further harm being caused. This action requires the people responsible to stop the specified activities. It must be stressed that these cases are extreme and rare.
9.4 In most cases, people who receive an Enforcement Notice can appeal to the Secretary of State for Communities and Local Government. An appeal has to set out why it is felt that the action should not be taken. The appeal can be dealt with by written representations, at an informal hearing in front of an Inspector or at a Public Inquiry. More details on the appeal process can be found via the planning portal at www.planningportal.gov.uk and anyone receiving a copy of an enforcement notice will be given details about the appeal process.

9.5 The Council also has other enforcement powers, including:

- Service of a ‘Breach of Condition Notice’ where development has taken place without compliance with a condition[s] of the planning permission. There is no right of appeal against this notice.
- 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 the unauthorised display of an advertisement.
- 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.
- Service of an Enforcement 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.

10.0 What you can expect after you have made a complaint

10.1 Written complaints will normally be acknowledged within 5 working days of receipt and each case will be individually assessed on its merits. Those cases of highest priority will be dealt with first. (See section 12 below)

10.2 Following the receipt of a planning enforcement complaint an initial investigation will normally be carried out within 14 working days.

10.3 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 persons in
order to establish whether a breach of planning control has occurred.

10.4 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 ceasing or removing the unauthorised work or use.

10.5 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.

10.6 You may be asked for more details during the course of the investigation and will be advised of the outcome of the case.

10.7 When the investigation reaches its conclusion you will be sent a Customer satisfaction form where you can rate the service you have been given by the Council’s Enforcement Team. Please note that this is not about the action taken by the Council but about the way in which your complaint was handled and the service provided to you so that we can continue to improve our customer experience.

11.0 How long will it take?

11.1 In most cases negotiation between the Council and the transgressor results in the matter being resolved. In some cases dealing with planning enforcement 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. Therefore it is not possible to give a standard time for dealing with enforcement cases. The number of new cases also varies greatly and current workloads may have a bearing on the time your complaint takes.

11.2 If an Enforcement Notice is served the Notice takes a period of time to come into effect during which time the person involved can appeal against it. In the event of an appeal the Council will defend its’ decision to issue the notice but ultimately an Enforcement Notice may be quashed or amended by the Planning Inspector appointed by the Secretary of State.

11.3 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.
11.4 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 reasonable period for compliance. However, if someone does not comply with a notice they may be prosecuted with the possibility of being fined by the Courts.

11.5 Where a breach of planning control is causing serious harm to public amenity or the environment, the Council can seek immediate remedial action. This action may involve the serving of a temporary or permanent Stop Notice.

11.6 The Enforcement Officers will advise you of any significant progress made and it is helpful if you keep the case officer up to date with any new information about the case.

11.7 It should be noted that in extreme cases, where the Notice is subject to an appeal, prosecution or remedial action in default of the Notice, it can take as long as two years to exhaust the process and ultimately resolve the breach of planning control.

12.0 What are the priorities?

12.1 The Council receives approximately 800 new 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.

12.2 As part of its enforcement responsibilities the Council also monitors, where possible Conditions imposed on planning permissions and legal agreements resulting from larger applications.

The following provides examples how cases are prioritised:

**Priority One**

- A serious threat to health and/or safety. (e.g. traffic hazard, storage of hazardous substances, development creating pollution problems).
- Permanent damage to the environment (e.g. loss of protected tree, unauthorised work affecting the character of a listed building and some works within a Conservation Area).

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. (e.g. 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 (e.g. 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.

**Priority Four**

- Breaches of a minor nature raising minimal planning concerns.
The Enforcement Process

1. Allegation received
2. Planning enforcement issue
3. Complaint administered and acknowledged within 5 working days.
4. Assessment to determine breach
   - No breach
   - Not expedient
5. Initial assessment and site visit 14 working days
6. Planning application received
   - Yes
     - Application considered and determined. Target 8 – 13 weeks
     - Possible formal notice issued
       - No
         - Possible Direct Action
       - Yes
         - Prosecution through the court
10. Appeal
    - Dismissed
11. Possible Direct Action
12. Prosecution through the court
13. File closed
   - All interested parties notified and customer feedback forms sent.
14. Other service area issue
   - Refer to relevant service area.
13.0 What if you or your land is the subject of an investigation?

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

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

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

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

13.5 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.

13.6 You may be served with a ‘Planning Contravention Notice’ that requires you to provide 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 legal implications of not completing and returning the Notice will be explained to you.

14.0 Where to get more information

14.1 If you require further information you can ask for help from the Council’s Planning Enforcement Team direct or via the Council’s web site or look at the publications provided by the Department for Communities and Local Government or their web site or the Planning Portal.
15.0 The Planning Register

15.1 Planning Enforcement Notices issued by the Council are registered as a local land charge. A copy is also kept on “The Planning Register”. This is sometimes called the “188 Register” as it is the section of the Planning Act that specifies that Notices served by the Council should be available for public scrutiny at any reasonable hour.

15.2 A copy of the register of formal notices served by the Council is available on request at the planning reception at The Guildhall during normal office hours. More recent Notices appear appended to the address of the site via the Council’s Web site at www.northampton.gov.uk