



Cabinet

Tuesday, 17 April 2018 at 6.00 pm

Room 6, Capswood, Oxford Road, Denham

SUPPLEMENTARY AGENDA No 2

Item

14. Local Enforcement Plan

Revised Appendix 1 (Pages 3 - 28)

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Cabinet

Councillors: N Naylor (Leader)
J Read (Deputy Leader)
B Gibbs
P Kelly
D Smith
L Sullivan

Date of next meeting – Wednesday, 27 June 2018

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Chief Executive: Bob Smith
Director of Resources: Jim Burness
Director of Services: Steve Bambrick



Appendix 1

Chiltern and South Bucks District Councils

Local Enforcement Plan



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Introduction to Enforcement Procedures

Planning enforcement is the mechanism of control that upholds the integrity of the wider town planning system. The Council can do this through the use of powers provided by legislation to enforce against inappropriate development; through negotiation; or, in certain circumstances through Direct Action/Intervention against inappropriate development. This is undertaken to ensure development is carried out only in accordance with the Development Plan.

Some of the formal tools available to the Council to delivering planning enforcement functions are set out in national guidance entitled 'Ensuring Effective Enforcement', which can be found in the National Planning Practice Guidance (NPPG) and is available to view online at: www.gov.uk/guidance/ensuring-effective-enforcement

This Local Enforcement Plan will set out how the Council will seek to carry out its planning enforcement function. This is to ensure that development that is not in accordance with the Development Plan is kept to a minimum, and to ensure that the public has continued confidence in the wider planning system.

The Planning Enforcement Team will investigate:

- The carrying out of development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended) without planning permission
- The failure to comply with a condition attached to a planning permission
- The carrying out of works to a Listed Building without consent
- The carrying out of unauthorised works, or removal, of tree in a Conservation Area or tree protected by a Tree Preservation Order
- The display of an advertisement/s without appropriate consent
- The failure to comply with a Legal Agreement subject to which a planning permission has been granted
- The untidy condition of property or land that affects local amenity;

The Enforcement Team does not typically investigate:

- Civil disputes, such as boundary disputes or the behaviour of individuals
- High Hedges
- Public highway matters, including parking on the highway, roadworks, or damage to verges
- Breaches that fall under the control of the County Council (such as waste dumping and minerals extraction)
- Noise, Disturbance and Pollution
- Health and Safety
- Dangerous Structures (unless it is an 'at risk' Listed Building)

How to report a breach of planning control

The preferred method for reporting breaches of planning control is to use the online reporting form which can be found here:

Reporting a Breach of Planning Control

- www.chiltern.gov.uk/enforcement
- www.southbucks.gov.uk/enforcement

Reports of breaches of planning control can be sent in by email or by letter. Any reports should include the address of the property/site including post code, a description of the activity or development being undertaken, the identity (if known) of who is carrying out the activity/development, and the full name, contact address and ideally the email address of the person making the report. If some of these details are not provided this may lead to a delay in the registration of the investigation, or the Council may simply not be able to register the investigation. The councils' current priorities for enforcement action are set out in Appendix C.

Anonymity and Malicious Complaints

Anonymous reports of a breach of planning control will not normally be registered or investigated. In exceptional circumstances, the Head of Planning and Economic Development or the Enforcement Manager may exercise discretion and choose to accept anonymous reports if they consider that opening an investigation to be in the public interest. Repetitive unfounded complaints against parties or individuals, which lead to repeated investigations, can cause an unreasonable invasion on and distress to individuals. Carrying out investigations into unfounded complaints also costs the Council in wasted time and effort. In an effort to protect individuals from harassment by proxy and to limit the amount of wasted resource committed to unfounded reports, the Council will take steps to stop

malicious, vexatious or timewasting reports. Where three or more unfounded reports are received from an identifiable individual or group of people about a specific site, or regarding a particular common issue – the Council reserves the right to refuse to investigate an allegation

made unless substantive evidence (accepted only at the discretion of the Head of Planning and Economic Development or the Enforcement Manager) is provided to substantiate any claims made.

Complainant Identity Protection

Details of complainants are legally protected under the Local Government Act 1972 Schedule 21 A Part 1. Unless instructed to do so by the Courts, the Authority will not release externally the detail of any complainant who has made a report to the Authority regarding an alleged breach of planning control, unless those details are being passed onto another department or agency that may be able to enforce against the issue subject of the report.

In some circumstances, although the Council will not reveal the identity of a complainant, circumstances on the ground can make it quite plain to a contravener who might have reported a matter to the Council. Although the Council will still not confirm or deny who has made the report, the Council cannot prevent the contravener from speculating who has made a report.

The Investigation Process and its key phases

All registered complaints about alleged breaches of planning control and queries will be investigated through the following stages

Investigation Phase 1 – Complaint receipt and logging

On receipt of a new valid complaint or notification regarding a breach of planning control, the matter will be registered and given a reference number. A case officer will be allocated the investigation, and the complainant (where appropriate) will be acknowledged. The complainant will be advised of the case reference number and allocated case officer. Where it is clear that the allegation does not represent a breach of planning control (i.e. the development does not require planning permission, or express planning permission has clearly been granted, or complies with permitted development regulations) the complainant/s will be notified and the case closed by the case officer.

New allegations will be registered and acknowledged within 5 working days of a valid allegation being made.

Investigation Phase 2 – Initial research and site visit

The case officer will normally undertake some initial research into the property history, and identify any previous investigations or relevant planning permissions exist for the development. An initial site visit will be undertaken by the case officer in accordance with the case categorisation and performance targets, to establish whether or not a breach of planning control has taken place. This may be by appointment if access is required, or simply viewing the site unaccompanied. Where allegations are unfounded (the alleged development has not occurred, or does not represent a breach of planning control) the case will be closed and the complainant will be advised of this outcome. Where the allegation appears to be founded, the investigation will progress.

In exceptional circumstances, the harm caused may be so immediately obvious or irreversible, that the Council may consider it necessary to issue immediate enforcement action, normally a Temporary Stop Notice (TSN) or seek/apply for a Court Injunction. This would then allow for the rest of the investigation process to progress with appropriate protections in place.

Investigation Phase 3 – Information gathering and obvious remedies

The next step in the investigation process would involve the Council advising the property owner or developer that a breach has occurred and that a remedy is required. It is important to explain the risks of potential enforcement action as early as possible and so that it does not come as a surprise later in the process. This step will therefore be formally done in writing, and will include an appropriate requisition for information notice (either a Planning Contravention Notice or a S330 Notice). The response to these requests helps the Council to ensure any enforcement notices or other action is properly carried out. It is at this stage, if considered appropriate by the case officer, an opportunity will be given to the developer to submit an application to Council for consideration 'without prejudice'.

Where the investigation reveals a potential offence has been committed, a formal interview under caution may be invited.

In exceptional circumstances, where a breach of planning control is blatant and the Council is confident that it can identify the parties committing the breach of planning control, investigation phase 3 may be omitted (at the discretion of the Enforcement Manager) and investigation phase 4 takes place instead.

Planning Contravention Notices (PCN) and Requisitions for Information usually carry a 21 day statutory response time. As such, any PCN or requisition for information will normally be issued within 5 working days of a site visit having been undertaken, so that the nominal timescale for the whole investigation phase to be completed within 28 days of the initial site visit being undertaken.

Investigation Phase 4 – Consideration of planning harm

It would be reasonable for the Council to consider issuing formal enforcement action in the following circumstances to ensure any harm caused by the breach of planning control is remedied

- if no application is invited (because the planning harm is clear, or an offence has been committed - such as display of an advert, unauthorised works to a listed building, or unauthorised works to a TPO tree); or,
- no application is received with a reasonable time period; or,
- an application is submitted but is refused by the Council

Either through the consideration of an application (if one is submitted) or as a standalone exercise carried out by the Case Officer, the Council will consider the merits of the development and whether planning harm exists against policy, or other material planning considerations.

Where an offence has been committed there is no requirement to consider planning harm before progressing formal action.

It does not automatically follow that the entire development must be removed or enforcement action taken, simply because it does not have the proper consents. The target of enforcement action is remedy of the planning harm caused by the development. This may only relate to certain aspects of an unauthorised development.

In the event that formal enforcement action is recommended, formal Notices will be served, and/or the Head of Legal and Democratic Services will be instructed in the case of prosecutions against offences committed for unauthorised advertisements, works to listed buildings or with regards to TPO trees.

If it is considered that no planning harm results from an unauthorised development (or breach of planning control) the case will be closed as it would not be expedient to take further action. Any complainants will normally be updated at this stage about the outcome of this phase of the investigation.

This phase of an investigation process mirrors closely the planning application process, with some additional complexities that also require consideration and often the seeking of legal advice. The statutory timeframe for complex planning applications to be considered allows up to 91 days. This phase of the enforcement process will normally be completed within this timescale from the date investigation phase 3 is closed (119 days from the initial site visit).

For investigations that have resulted in the issuing of a Temporary Stop Notice at the close of phase 2 of an investigation, the planning harm will normally be considered before any Temporary Stop Notice expires (28 days after a Temporary Stop Notice is issued).

Investigation Phase 5 – Appeals/Court Challenges

The procedure to be followed in the event of an appeal against a notice, or a court challenge is normally dictated by the organisation concerned (The Planning Inspectorate, or the Courts). The Council will endeavour to defend its actions in such cases, and where appropriate, recover any incurred costs resulting from unreasonable behaviour on the part of the appellant or their agents through the appeal process. Planning appeals and court proceedings can take a number of months to conclude in most circumstances, and the timescales involved are normally beyond the control of the Council.

Investigation Phase 6 – Compliance period

Once an enforcement action has become effective, the Council will note the compliance date requirement set out in that action in their systems. A site visit appointment will be carried out shortly after the compliance period ends to check that the necessary works have been completed. Where it is clear that compliance has not occurred, the property owner/developer will be informed that the investigation will progress to the next investigation phase.

Where evidence of compliance has not already been received by the Council regarding

effective formal actions requiring breaches to be remedied, a compliance site visit will be conducted as soon as possible after the compliance period expiring.

Investigation Phase 7 – Prosecution

Periodically, the Council will review all outstanding notices that have expired compliance periods. Where appropriate, each case will be visited and a witness statement produced evidencing any offences committed for non-compliance. On each occasion a letter will be sent to the offender notifying them of the additional evidence gathered, and that the breach should be remedied.

The Council will carry out site inspections of all outstanding enforcement notices not less than bi-annually each calendar year.

At times faith is lost in the planning system because it appears to the public as though developers or offenders profit from not complying with Planning legislation. Under the Proceeds of Crime Act 2002, prosecuting authorities can make applications through the courts to seek confiscate the proceeds of any criminal activity in the planning system following a successful prosecution.

In all cases where a prosecution is successful, the Council will consider the merits of seeking to apply to the courts to confiscate any proceeds of crime. Where the proceeds are nominal, or would be less than the cost of the Council seeking the confiscation, it may be considered not to be in the public interest to pursue.

Investigation Phase 8 – Direct Action and Injunctions

Where all other measures have failed to remedy the harm caused by a breach of planning control or, where direct action by the Council is both lawful and the quickest and most resource efficient way to remedy the breach of planning control, the Council will consider, where appropriate, using Direct Action powers to ensure works required to comply with a notice,

or stop an offence from continually being committed. This normally would involve officers of the Council, or persons or organisations so instructed by the Council, physically carrying out operational works to ensure compliance with formal enforcement actions is achieved. In all such circumstances, the Council will seek where possible to recover any incurred costs in carrying out such direct action works.

Alternatively, if considered appropriate, the Council might instead choose to apply to the Courts for an Injunction – seeking a court order for the land owner or developer to carry out works required to remedy a breach of planning control.



Decision Making and Taking Action

Closing Investigations

The decision to close investigations is delegated to the Head of Planning and Economic Development, who will normally delegate that decision to officers in the planning department. Any decision to close an investigation will be recorded on the Council's database records setting out the reasons for that decision. The decision to close an investigation or not to pursue enforcement action is not subject to any third party right of appeal, but may be subject to a Judicial Review, or if the Council has acted improperly may be subject to complaint to the Local Government Ombudsman.

Some operational works do not require planning permission and some examples follow:

Internal Works

Most works that are undertaken inside a building do not require planning permission (unless the building is listed, in which case listed building consent may be required). This might include taking down, or putting up an internal wall, replacing a kitchen or bathroom, or reorganising rooms inside a house for example. Separate requirements exist for such works as part of the Building Regulations.

Landscaping

Considerable elements of landscaping or gardening works do not require planning permission. For example creating a flower bed in a garden or planting or removing a bush, hedge or a tree (unless the tree or hedgerow is protected or the tree is in a conservation area). It is worth noting however, that landscaping works might imply or assist a change of use of the land, which might require planning permission, or the landscaping might be required to be retained by a condition attached to a planning permission.

Permitted Development

Works that are being carried out in accordance with an express consent (such as a planning permission granted by the Council, or advertisement consent), or in accordance with permitted development regulations such as the Town and Country Planning (General Permitted Development) Order 2015 are not a breach of planning control.

Time Limits

There are time limits on the ability of the Council to take enforcement action over a particular breach:

- operational development (essentially any building works) - the Council can take no action after 4 years from the date on which operations were substantially completed;
- change of use of a building to a single dwelling house – the Council can take no action 4 years from date of the material change of use;
- all other changes of use (for example, an agricultural field being used as residential garden) – the Council can take no action 10 years after the date of material change of use; and
- a failure to comply with planning conditions – the Council can take no action 10 years from the date that the condition is breached or not complied with.

In all of the above cases, the time limits mean that a development would be immune from enforcement action provided that the Council has not taken any action before the specified time period expired. It is worth noting however, that section 171BA of the Town and Country Planning Act 1990 (as amended) allows

Councils to seek a 'Planning Enforcement Order' if deliberately concealed breaches of planning control have occurred. And case law (established through Welwyn Hatfield) provides that where a development is deliberately concealed from the LPA, a person may not profit from that concealment - and therefore enforcement may, in certain circumstances still be taken.

Formal Actions

The decision to take enforcement action which includes the service of notices or the taking of direct action is delegated to the Head of Planning and Economic Development, subject to the conditions and limitations of the Council's constitution. Planning enforcement action cannot normally be taken to effect a punishment for not complying with the system. In most circumstances, it is only reasonable to take enforcement actions in order to remedy some harm and it is expedient to take action.

Instigating Court Proceedings

The decision whether to instigate court proceedings (such as prosecutions or seeking injunction proceedings) is delegated to the Head of Legal and Democratic Services having received instructions from the Head of Planning and Economic Development.

Appendix A - Powers of Entry

Section 196A of the Town and Country Planning Act 1990 (TCPA) - Rights to enter land without a warrant at any reasonable hour to ascertain whether there is or has been any breach of planning control on land or any other land.

Section 196B (TCPA) - Rights to enter under a warrant.

Section 196C (TCPA) - Rights to take any other persona as necessary for the purposes of the investigation.

Section 214A, 214B, 214C (TCPA) - Rights of entry in connection with injunction proceedings.

Section 324 (TCPA) - Powers to enter any land for the purpose of the preparation, revision adoption or approval of a local development order under Part 2 of the Planning and Compulsory Purchase Act or local development plan.

Section 88A, 88B, 88C of the Planning (Listed Building and Conservation Areas) Act 1990 - Powers of entry in relation to heritage and listed building cases.

Leaving the land - On leaving the land, the authorised person shall, if the owner is not then present, leave it as effectively secured against trespassers as it was found.

Entry to agricultural land - In the interest of animal and plant health, special precautions are essential when the right of entry onto agricultural land is exercised.

Animal Health - In circumstances where there is an outbreak of a serious disease in animals (i.e. foot and mouth, anthrax, avian flu), officers should abide by notices displayed on farmland. Officers should not enter land under circumstances where they could be responsible for the spread of disease. Officers should contact DEFRA or the Local Animal Health Office in the first instance.

Plant Health - where there is a serious plant disease, access to land may be strictly controlled. Disease can spread on footwear and officers should contact DEFRA for advice and assistance. It is an offence to wilfully obstruct an authorised officer exercising the above powers in connection with their duties.

Vulnerable Person(s) - Should the initial site visit be undertaken and it is found that only vulnerable people are present on site, the visit will be abandoned and contact will be made with the responsible person to arrange a suitable time and date. No photographs will be taken that will include vulnerable persons.

Appendix B - The Enforcement Toolkit

Enforcement action may involve any of the following:

Planning Contravention Notice

Section 171C and s171C of the Town and County Planning Act 1990 (as amended)

The Planning Contravention Notice is used to obtain information relating to activities on land, and can only be issued when it appears to the local planning authority that a breach of planning control may have occurred.

There are penalties for non-compliance with a Planning Contravention Notice, providing misleading or inaccurate information, or failing to provide a response within 21 days of the notice being issued.

Section 330 Notice

A Section 330 notice has a limited use, and is generally used to ascertain information relating to interest in land.

Simple Caution

When the Council is minded to prosecute for an Offence, but the suspect is willing to admit their guilt and contribute to the Council's Costs, the Council will consider issuing a formal Caution, which will be held on record and produced at sentencing if the suspect is found guilty of any future offences.

Enforcement Notice

Section 172 of the Town and Country Planning Act 1990

An Enforcement Notice can be used to remedy an injury that has been caused by the breach, to secure compliance with conditions of a planning permission, or to require the use of land to cease and to restore land to the position it was before the breach, within a specified time period.

Under-enforcement

Section 173 (11) (as amended) of the Town and Country Planning Act 1990

Where an Enforcement Notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease but does not do so, and all the requirements of the notice have been complied with, planning permission is deemed to have been granted in respect of those buildings or works/activities not required to be removed or to cease by the notice.

Listed Building Enforcement Notice

Sections 38 - 43 Planning (Listed Buildings and Conservation Areas) Act 1990

A Listed Building Enforcement Notice can be issued where there have been works to a Listed Building without consent or failure to comply with a condition attached to any consent. There are no time limits for issuing a Listed Building Enforcement Notice and irrespective of whether a notice has been issued; the carrying out of work without the necessary listed building consent is an offence under s9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Breach of Condition Notice

Section 187A of the Town and Country Planning Act 1990

A Breach of Condition Notice may be issued where planning permission has been granted (including on appeal) subject to conditions, and the conditions have not been complied with. This Notice is an alternative to the enforcement notice requiring compliance within the date specified

on the notice (usually 28 days), starting from the date the notice was issued. There is no right of appeal. It is an offence not to comply with the notice and the maximum penalty is currently set at level 4 (£2,500).

Temporary Stop Notice

Section 171E of the Town and Country Planning Act 1990

A Temporary Stop Notice may be issued where there has been a breach of planning control and it is expedient that the activity should stop immediately. The notice is effective for 28 days from the date of display or as specified in the notice. It is an offence to contravene a Temporary Stop Notice.

Stop Notice

Section 183 of the Town and Country Planning Act 1990

A Stop Notice can be issued at the time an Enforcement Notice is served or afterwards. This notice cannot be used on Listed Buildings. The Notice is used to ensure that works cease before the expiry of the compliance period of an Enforcement Notice, and prohibits the carrying out of that activity on the land subject to the Enforcement Notice.

It is an immediate offence for anyone to contravene a Stop Notice and the offender may be prosecuted in the Magistrates Court or in some cases the Crown Court, depending on the seriousness of the offence.

Injunctive Proceedings

Section 187B of the Town and Country Planning Act 1990

Where the local planning authority considers it expedient to restrain a breach of planning control, it can apply to the High Court or County Court for an injunction.

Under section 214A of the 1990 Act, the local planning authority may apply for an injunction to restrain an actual or apprehended offence under section 210 (work on TPO trees) or section 211 (work on trees in a conservation area).

An injunction may also be used to enforce listed building control (to cease works to listed buildings). It is an offence to contravene an injunction.

Direct Action or Default Action

Section 178 (1) of the Town and Country Planning Act 1990

In some circumstances, direct action or default action may be considered. Direct or default action involves the local planning authority undertaking works that are necessary to remedy the breach of planning control, where the recipient of the enforcement notice has not complied with the requirements of the notice, and all options have been exhausted.

This can be an expensive option as the costs would need to be paid for upfront and recovered from the land owner. In cases where this is not possible, the local planning authority has the power to register a charge against the land in breach of the notice and recover the money when the land or property is eventually sold.

Tidy Site Notice

Section 215 of the Town and Country Planning Act 1990

The Council may issue a notice requiring steps to be taken to tidy up land when its condition adversely affects the amenity of the area. The Notice will be issued on the owner or occupier of the land requiring the works to be carried out within a specified time period.

There is a right of appeal to the Magistrates Court. If the notice is not complied with, the Council may prosecute the owner for non-compliance, or enter the land to carry out the works in default and recover the costs from the owner.

It is an offence to contravene a Section 215 Notice, and the Council has the power under s219 to carry out the works in default and recover the costs if the Notice is not fully complied with.

Section 106 Agreements

Section 106 of the Town and Country Planning Act 1990

A section 106 agreement of the Town and Country Planning Act 1990 (as amended) is a planning obligation in the form of a legal document (a deed) which makes a development or proposal acceptable in planning terms. The obligation becomes a land charge and can be enforced by way of a private law claim, either in court or by arbitration.

Removal Notices

Section 225A of the Town and Country Planning Act 1990

A removal notice can be served on a structure which facilitates the display of, or is itself, an advertisement. A minimum of 22 days must be given for the structure to be removed. If the responsible party fails to remove the advert within the timescale, the Council can enter the land, remove the structure and recover the costs of doing so. There is a right of appeal to the Magistrates Court.

Completion Notices

Section 94 of the Town and Country Planning Act 1990

If a development subject to planning permission has been started and not finished, and the time limit for starting the development has lapsed, with completion within a reasonable period unlikely, a completion notice can be served, which has the effect of expiring the planning permission after a specified period, which must not be less than 12 months. Completion notices are rarely used, but consideration will be given if a development appears to have stalled and it is expedient to take action.

Replacement Tree Notices

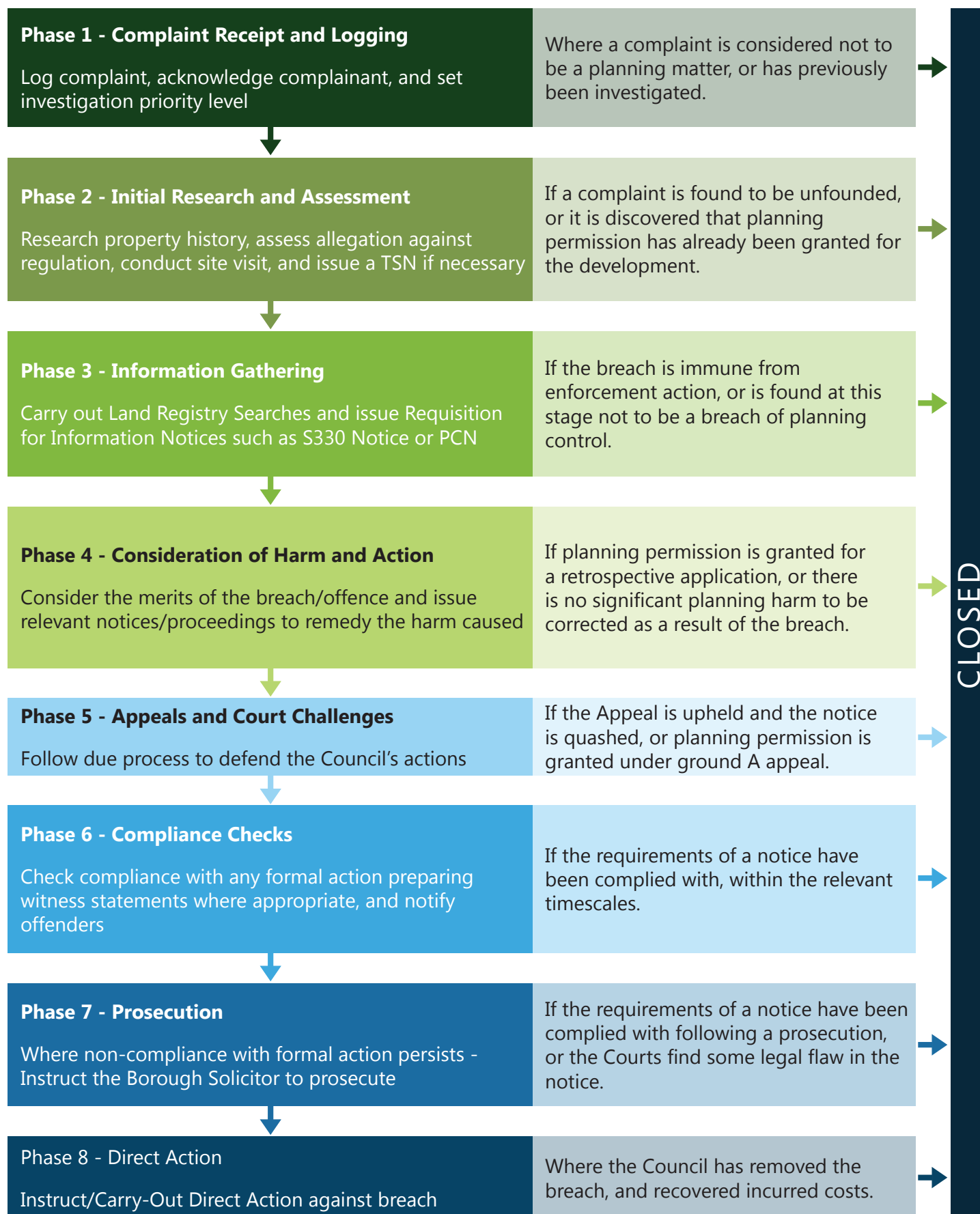
Section 207 of the Town and Country Planning Act 1990

Notwithstanding the offences in relation to carrying out unauthorised works to trees, if a protected tree is removed uprooted or destroyed, the owner of the land has a duty to replace the tree under s206 and s213 of the Act. If satisfactory replacement is not carried out, the Council can serve a formal Notice under Section 207 requiring the replacement to be carried out in a specified timeframe. Failure to comply with the Notice will give the Council the powers to carry out the works under s209 of the Act and recover the costs.

8 phase explanation

Investigation Phase	Explanation
1 – Complaint receipt and logging	Log complaint, acknowledge complainant, and set investigation priority level. Where a complaint is considered not to be a planning matter, or has previously been investigated the investigation will be closed. All other investigations will move onto the next phase.
2 – Initial research and site visit	Research property history, assess allegation against regulation, conduct site visit, and issue a Temporary Stop Notice (TSN) if necessary. If a complaint is found to be unfounded, or it is discovered that planning permission has already been granted for the development the investigation will be closed. All other investigations will move onto the next phase.
3 – Information gathering and obvious remedies	Carry out Land Registry Searches and Issue Requisition for Information Notices such as S330 Notice or Planning Contravention Notice (PCN). If the breach is immune from enforcement action and no deception has caused this, or is found at this stage not to be a breach of planning control, the investigation will be closed. All other investigations will move onto the next phase.
4 – Consideration and Formal Action	Consider the merits of the breach/offence and issue relevant notices/proceedings to remedy the harm caused, and carry out an expediency test. If planning permission is granted for a retrospective application, or there is no significant planning harm to be corrected as a result of the breach, the investigation will be closed. All other investigations will move onto the next phase (in the case that an appeal is made against action this will be Phase 5 – otherwise the next phase jumps to Phase 6).
5 – Appeals/Court Challenges	The Council will follow due process to defend the Council's actions. If the Appeal is upheld and the notice is quashed, or planning permission is granted under a ground A appeal the investigation may be closed, or if the action was quashed because of a technical error, the investigation may go back to Phase 4 and formal action reconsidered. All other investigations will progress to the next Phase.
6 – Compliance Period Monitoring	Check compliance with any formal action preparing witness statements where appropriate, and notify offenders. If the requirements of a notice have been complied with, within the relevant timescales the case will be closed. All other cases will continue to the next phase.
7 – Prosecution	Where non-compliance with formal action persists, consideration will be given to instruct the Borough Solicitor to prosecute liable parties, and where appropriate those instructions will be issued. If the requirements of a notice have been complied with or it is not considered to be in the public interest to progress with legal proceedings, or the Courts find some legal flaw in the notice, the case may be closed. All other cases will progress onto the next phase.
8 – Direct Action and Injunctions	Consideration will be given to carrying out (or instructing contractors to carry out) Direct Action to remedy the breach, and seek to recover any incurred costs where the Council has removed the breach, and recovered incurred costs. If Direct Action is not considered viable for the Council to carry out at this stage, consideration will be given to seeking an Injunction from the Courts ensuring compliance.

8 phase investigations / flow chart



Appendix C - Priorities for enforcement

All reports of breaches of planning control reported to the Council will be registered, acknowledged, given a reference number and investigated to an appropriate level, with a clear rationale for any decision made. Certain types of breach require special level of prioritisation. This may be due to the ecological or historic sensitivity of the land and surrounding area, or because of the risk of protracted enforcement investigations if an unauthorised use or development is allowed to progress too far before a decision is made.

The Council will prioritise investigations through the first three phases of investigation (registration, initial investigation, and the requisition of information – see below). Temporary Stop Notices and/or Injunctions will be used as a tool to limit the extent of a planning harm that is incurred, before more permanent and long lasting enforcement actions are reasonably considered.

Investigations will be prioritised at the registration phase, as follows:

Priority A

- Active and significant unauthorised works being carried out to a Listed Building or Protected Tree (TPO or a tree in a conservation area);

Where the Council considers that the allegation is reasonably founded, an initial site visit will be conducted within 5 working days of a valid allegation being registered.

Priority B

- Active and significant unauthorised operational works in a sensitive location, either ecologically or because of a policy protected status – where irreversible damage to the environment may be caused; and,
- Changes of use of land where the use or activity causes significant harm to the amenity of 5 or more nearby residential properties; and,
- On-going activity in breach of a planning condition, that has the potential to cause irreversible harm to the environment or cause significant harm to neighbouring residential amenity; or,
- Advertising banners,
- On-going activity or development in breach of planning control where the Council has reasonable suspicion the activity or development is being deliberately and consciously conducted without proper authorisation, in an effort to gain financially at the expense of the wider public interest;

Where the Council consider that the allegation is reasonably founded, an initial site visit will be conducted within 10 working days of a valid allegation being registered.

Priority C

- All other breaches of planning control (including most householder works);
- Where the Council consider that the allegation is reasonably founded, an initial site visit will be conducted within 20 working days allegation being registered.

Priority D

General queries and allegations not directly related to planning matters, will be responded to within 20 working days.

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