

Appendix 2 - Investigation Outcomes

No breach established

After a site visit there is found to be no breach of planning control; for example the development is permitted development or is not within the control of planning legislation.

Breach but not expedient to pursue

The council has discretionary powers and is not required to take enforcement action just because there has been a breach of planning control. If a technical breach has taken place, for example a house extension that is only marginally over permitted development limits then it is not normally worthwhile taking lengthy and expensive enforcement action over something that causes minimal public harm.

Development is lawful

This is where there has been a breach but the activity has been going on for so long or the structure has been substantially complete for such a long time that the breach is immune from any enforcement action and the development has become “lawful” (for planning purposes). The following table shows the time scales:

Activity	Immune after
Operational development (e.g. building works, new access points, fences)	Substantially completed for more than 4 years.
Change of use of a building to a single dwelling house / flat	Continuous occupation for 4 years or more.
Change of use	Continuous occupation at the same intensity for 10 years or more.
Breach of a condition on a planning permission / consent	Continual non compliance for 10 years or more.

Attempt to negotiate a resolution

In accordance with government guidance, the first priority is to try to resolve a breach of planning control through negotiation. This could be by the relevant party agreeing to cease an unauthorised use, remove an unauthorised development or submit a retrospective planning application (see below). Any such negotiation will include a timescale for whatever action is agreed or required. However, the council will not allow negotiations to hamper or delay formal enforcement action that may be required to make the development more acceptable on planning grounds or to make it cease.

Invite a retrospective application

In some cases the most appropriate way to rectify a breach of planning control is to invite the relevant party to make a retrospective planning application for the development or change of use that has occurred. This approach is likely to be taken

where planning officers consider there is a reasonable likelihood that a planning application will be successful in light of the relevant planning policies. The council invites the submission of retrospective planning applications when appropriate but will only pursue submission if there is a need to control the breach of planning control through conditions. Minor and technical breaches of planning control are unlikely to be pursued to the submission of a retrospective planning application.

Formal action

If negotiation does not secure compliance with what the council considers acceptable then it has the power to take formal action against any breach. The nature of the breach will dictate what route the council chooses to pursue. Depending upon what action is taken the person responsible may get a criminal record.

Ultimately the owner or persons responsible may be required to remove a building work and / or cease an activity and remove from the site, at their own expense, everything associated with the activity. In the event of non-compliance, the responsible persons are open to the risk of prosecution; alternatively the council may take direct action to undertake the appropriate works and recover the costs from the responsible person(s). Where there is a habitual breach of planning control the council can, as a last resort, compulsorily purchase the land so as to stop the activity.

Types of formal action

The council has a range of formal powers under the Town and Country Planning Act that it can use to remedy breaches of planning control. Some of these are listed below. Additional powers exist to serve injunctions, to take direct action and to prosecute when it is deemed expedient to do so.

- Planning Contravention Notice – Section 171(c) provides the power to serve a notice requiring persons to divulge information in respect of land and activities.
- Breach of Condition Notice – Section 187(a) provides the power to serve a notice to secure compliance with conditions specified within a planning permission.
- Enforcement Notice – Section 172 provides the power to serve a notice which details the steps required to remedy the situation. This notice can also be served in conjunction with a stop notice (below).
- Stop Notice / Temporary Stop Notice – Section 183 / 171(e) provides power to serve a notice requiring unauthorised activities to cease.
- Section 215 Notice – Provides the power to secure the proper maintenance of land and buildings.