

Planning Enforcement Customer Charter

A guide to the aims, service standards, decision making and procedures of the planning enforcement service.

West Lindsey District Council has set out in its corporate plan a commitment to ensure that the district is a place where people **'want to live, work, invest and visit.'** Part of achieving this for the people in West Lindsey depends on ensuring the local environment is conserved or enhanced.

The council can deliver this commitment by ensuring that the businesses and communities in West Lindsey operate and develop in a sustainable and environmentally responsible way. A key way of ensuring this happens is to consistently use the council's enforcement powers to take action against any breaches of planning control.

Each year the council receives around 400 reports of possible planning breaches from a wide range of people, including; residents, local ward or parish councillors and other partner organisations.

These reports are where someone believes that there may be an activity, a change in use or development (i.e. building work) taking place that could require planning permission.

The council will always seek to operate its planning enforcement in a fair, consistent and open way. Whether you wish to report a planning breach or you have been contacted by the council about a possible planning breach at your property or on land you own, this guide will help you understand how the enforcement service works.

This guidance contains extracts from the separate *West Lindsey Planning Enforcement Policy* which can be viewed in full on the council's website. Please see the back page of this guidance note for details.

www.west-lindsey.gov.uk



Introduction - Being in breach of planning control is not, in itself, a criminal offence. For each allegation, the council will investigate the circumstances of the case and determine what, if required, would make the development acceptable according to the planning regulations. The general test applied is 'would planning permission have been granted for the development if it had gone through a planning application?'. Non-planning considerations will not be part of this process.

The council will initially attempt to resolve all breaches of planning control through negotiation, with the exception of breaches of planning control which could not be rectified to meet the planning criteria and should be removed/amended as a priority. Negotiation will not be allowed to unjustifiably delay any necessary planning enforcement action.

Service Standards - The planning enforcement section will operate the service in accordance with the published enforcement policy which sets out the full level of service and performance the public and businesses can expect. This is summarised below. We will regularly review these standards taking account of the views of stakeholders.

Reporting a breach - People reporting possible planning breaches will be asked to provide as much detail as possible and must provide their own contact details so that officers can obtain additional information if required, such as evidence of the impact and harm being caused by the potential breach. To focus staff resources appropriately, investigations will be carried out on a priority based approach. This means officers will gather as much information as possible on the cause and impact of the possible breach and apply judgement to decide which priority category the breach would fall into, and how best to address the issues raised.

Non-enforcement issues - There are a number of issues that are regularly reported to the council that **cannot** be pursued by planning enforcement. These include:-

- **Neighbour disputes:** The Council will not pursue obvious neighbour disputes unless there is a clear planning issue which has a significant impact on local amenity.

- **Anonymous complaints:** Unless relating to works on protected trees or listed buildings.
- **Breaches of covenants or deeds:** These may be civil matters but are not planning concerns.
- **Trade complaints:** In cases where the issue is purely trade or competition.
- **Boundary disputes:** Again, this is generally always a civil matter and not a planning concern.
- **Clearing of un-protected trees or landscaping and gardening works**
- **Height of hedges and trees:** This can be pursued under other legislation.
- **Internal alterations** (unless to a listed building – if in doubt please ask!).
- **External security lights fixed to houses:** If serious, this can be pursued under other legislation.
- **Fences and walls in rear gardens:** Unless assessed to have a 'substantial' impact.

Responding to customers - In all cases when a report of a possible planning breach is made to the enforcement officers it will be acknowledged within **2 working days**. It will be allocated a priority status which is determined by the level of impact and severity of the breach, as set out in the full enforcement policy.

All users of the service are encouraged to report issues directly to the enforcement team to ensure the quickest response. Any personal information provided to the council is held securely in line with the Data Protection Act (DPA) 1998. Your local ward member may be notified of the complaint but personal details will not be disclosed. Anonymous complaints will not be investigated.

Investigating reports of potential planning breaches - An initial site inspection will be carried out if there has been enough information provided to officers to allow an investigation to start. Site visits will take place within the timeframes set out in the adopted policy and are based on the priority given to the reported breach. Where the impact of the breach could be serious (priority 1 cases) officers will attend within 1 working day.

Examples of priority 1 cases include; potential damage to a listed building or designated important site, or clear and immediate risk to public safety. For all other breaches site visits will be carried out between 3 and 15 working days depending on severity. The case will then be assessed against the appropriate legislation, policy and regulations to determine if a breach of planning control has occurred.

The council's response - A response will be made to the enquirer (and the owner of the site under investigation when a breach has occurred), within 20 working days of receipt of the enforcement enquiry. The response will set out the council's decision and/or any proposed further action. Examples of further actions are: closure of the investigation; request for further necessary information; invitation of a planning application; a proposed solution; or progression of enforcement action

First steps to resolving planning breaches -

At one end of the scale, if no or little harm is identified, the matter could be treated as a 'technical breach' with no further action to be taken. Alternatively a planning application might be invited to 'regularise' the situation. At the other end of the scale, where it is assessed that serious harm has occurred, a formal notice might be served and other formal steps considered.

The Council will always exercise its enforcement powers on an individual basis and assess the expediency and public interest of taking action before deciding how best to act. The council has a wide range of planning enforcement powers, but must act in accordance with national policy and guidance.

In most cases the council will provide the owner or occupier of the land or building where the breach has occurred an opportunity to put things right. This can include to voluntarily remedy any harmful effects of the unauthorised development. Sometimes this may include making a breach acceptable by obtaining a conditional planning permission. If this is the case an officers will invite an application to be made to the council, allowing two months for submission in normal circumstances. Any submitted application will be subject to normal consultation procedures and details will be made available on the council website.

In cases where an application has been invited and no harm is being caused to the local area; no further formal action can be taken regardless of whether or not an application is submitted.

Taking Action: For the most severe planning control breaches or where a request to undertake remedial work is not adhered to, formal enforcement action will be taken.

Prior to the serving of a formal notice the council will normally allow the owner(s) of the site under investigation an opportunity to discuss by telephone, letter, site or office meeting, which can be mutually agreed. This will include any steps which can be taken to avoid action by the council and the right of appeal of the owner(s).

Where enforcement action is deemed necessary a notice will be served within 20 working days of the decision. The enquirer and the owner of the site/ land concerned will be advised in writing.

Updates on investigations and the level of information that can be shared - Progress updates will be given to the enquirer and any other party with a legitimate interest in the issue (such as ward councillors and parish councils). However, enforcement can be a very complex process. Where action needs to be taken by the council this must follow the necessary legal course. Each enforcement case can vary considerably, and so too will the time taken to resolve it. Although many cases do not result in formal enforcement action, many do require lengthy investigations, site surveillance or legal action over several months.

Because enforcement action is part of a legal process officers are often very limited in the level of detail or information that can be provided in an update. This can be frustrating to people who have reported the issue but is totally necessary to ensure that the appropriate action can be taken and the investigation is not compromised. Officers will advise in their initial acknowledgment when updates will be provided.

Appeals will be processed in accordance with the Government's timescales. Full details will be provided with the enforcement notice served.

Service pledge - The service will be operated in a professional and customer-focused manner. In cases of dispute, rights of complaint or appeal will be clearly explained.

Further information: In circumstances where the most reasonable course of action to deal with the harm being caused lies outside of planning controls, the planning enforcement team will refer the matter to the relevant department/team for action. This could be in partnership with the planning enforcement team, where appropriate. The enquirer will be made aware of any referrals/partnership working. The decision to take enforcement action will normally be made by the Team Manager or Senior Officer within the

team, as agreed through the delegation arrangements. Enforcement action will always be proportionate with the breach of planning control that has taken place. Enforcement action will not be taken against a minor or technical breach which causes no harm to the local area. Enforcement action will not be taken purely to regularise breaches of planning control. In cases where an application would have a chance of success, an application will be invited for consideration through the usual process.

To make an enforcement enquiry and for general enforcement advice:

Phone: 01427 675 194 or 01427 676 570

Write to: West Lindsey District Council, Marshalls Yard, Gainsborough, Lincolnshire, DN21 2NA

Email: enforcement@west-lindsey.gov.uk

Website: www.west-lindsey.gov.uk for viewing the full planning enforcement procedures, to find out about or view planning permissions, or to make a new complaint online.

Your local ward councillor(s): Contact the council offices or visit the website for full details. Councillors can give advice about how to access council services and make your views known.

Independent advice: You can obtain free independent professional advice on planning issues by contacting [Planning Aid](http://www.planningaid.org) on 0330 123 9244 or advice@planningaid.rtpi.org.uk.

Planning Portal: The Planning Portal is the UK Government's online planning and building regulations resource for England and Wales. It provides information on plans, appeals, applications, contact details, research areas. The planning portal has an interactive guide for householders; you may wish to use this guide to ascertain if planning permission is required – www.planningportal.gov.uk You can also use the Planning Portal to submit an planning application.

Building Control: If your plans include an extension or alteration to a dwelling, or if you are concerned about a possible dangerous structure, you can talk to our Building Control team 01427 676 670 or e-mail building.control@west-lindsey.gov.uk

Environmental Protection Team: This section of the council can investigate issues such as noise, pollution, odour, and flooding. Contact 01427 676676 or env.protection@west-lindsey.gov.uk

Customer care standards: West Lindsey District Council has a customer care procedure available on the council's website or by request in writing. This explains the common standards which apply to all of the council's services and our general complaints procedure.

Feedback and/or complaints about the service: In the first instance please phone, or send a letter or email to the Planning Enforcement Team Manager via the details shown above.

If you need this information in another format, please contact:
01427 676 676 and advise our Customer Services Advisors.