

# Local Enforcement Plan

## 1. Introduction

1.1. The National Planning Policy Framework (NPPF) recommends that local planning authorities publish a local enforcement plan. The plan should set out how the Council will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

1.2. This Local Enforcement Plan sets out the Council's priorities for investigation, explains what will be investigated and what will not and the priorities for responses to complaints and the timescales for these responses. Planning enforcement is not statutory and is a discretionary power of Local Planning Authorities. It is not illegal to build something without the benefit of planning permission.

1.1. Paragraph 207 of the NPPF sets out that effective enforcement is important as a means of maintaining public confidence in the planning system, that planning enforcement action is discretionary, and that Local Planning Authorities should act proportionately in responding to suspected breaches of planning control.

1.2. This plan replaces the West Lindsey District Council Planning Enforcement Policy, last revised in 2010.

## 2. Legislation and Guidance

2.1. Planning enforcement matters are covered within a broad range of guidance and legislation. The most relevant are as follows:

- The Town & Country Planning Act 1990 (as amended)
  - The Town & Country Planning (Use Classes) Order 1987 (as amended)
  - Planning (Listed Buildings & Conservation Area) Act 1990
  - Planning & Compensation Act 1991
  - Planning & Compulsory Purchase Act 2004
  - The Planning Act 2008
  - Localism Act 2011
  - National Planning Policy Framework (March 2010)
  - National Planning Practice Guidance (March 2014)
- <https://www.gov.uk/guidance/ensuring-effective-enforcement>

2.2. The above guidance and legislation provide the scope for the Council to take action, where expedient against breaches of planning legislation. More information on the legal framework can be found here <http://planningguidance.planningportal.gov.uk/>

### **3. Approach to Enforcement**

- 3.1. The general approach taken to enforcement by the Council is set out in its Corporate Enforcement Policy, this plan operates in conjunction with the policy. As an overview, decisions that are made in relation to enforcement will be consistent, balanced, proportionate and fair and relate to the relevant legislation and consider public interest. The Council's approach is relevant to the risk caused and ensures that we focus on the issues that cause the highest harm.
- 3.2. Within planning enforcement consideration is also given to "expediency". When determining whether or not to take enforcement action the Council has to decide whether or not it is expedient to do so (Section 172 (1) (b) of the Town and Country Planning Act 1990). The key test being whether the breach of planning control would unacceptably affect public amenity.
- 3.3. It would not normally be expedient to take enforcement action where a breach of planning control occurs but where there is;
- (i) No significant conflict with national or local policy; or
  - (ii) A reasonable prospect that planning permission may be granted, subject to conditions; or
  - (iii) No significant or immediate harm to the amenity or safety of residents or to the environment or areas of acknowledged importance,
- 3.4. These considerations ensure that the Council are not taking enforcement action in regards to matters which are "not expedient" or in regards to matters which are minor or technical which cause no harm to amenity.
- 3.5. The Council will always attempt to persuade an owner or occupier of land to voluntarily remedy any harmful effects of unauthorised development, subject to reasonable timescales. The Council will use its formal enforcement powers as necessary should a voluntary resolution not be forthcoming.
- 3.6. The Council has a power of entry to investigate planning matters provided for under the provisions of Sections 196A of The Town and Country Planning Act 1990 (as amended). Officers can enter land specifically for enforcement purposes. This right is limited to what is regarded as essential, in particular circumstances, for effective enforcement of planning control.

### **4. The Planning Enforcement Service**

- 4.1. Prior to reporting suspected breaches, customers should refer to the Council's website and/or the Planning Portal to ascertain whether the matter is something that can be investigated. The Planning Portal can be accessed via <http://planningguidance.planningportal.gov.uk/>

4.2. Any reports of suspected breaches should be made to the Council via its online reporting system. This ensures that all the relevant information needed to initially consider the breach is provided. It will also enable the Council to determine at the earliest opportunity whether it is a matter that it can deal with. Reports can be made via [www.west-lindsey.gov.uk](http://www.west-lindsey.gov.uk)

4.3. Once a report is received the Council will determine its impact level and investigate accordingly within set timescales (see section 6). All initial reports will be acknowledged. For any case that is not high impact it is our aim to inform customers of our likely course of action within 20 working days of receiving a report.

4.4. Confidentiality for complainants is paramount and the Council will ensure that this will be respected at all times in accordance with the relevant data protection legislation.

4.5. The Council will not pursue reports of the following;

- Boundary disputes
- Neighbour disputes
- Legal covenants
- Damage to property
- Devaluation to property
- Unsafe structures
- Trespass
- Parking disputes
- Cars for sale on the public highway
- Internal alterations (unless a listed building)
- Heights of hedges and trees (can be pursued under other legislation)
- External security lights fixed to property (can be pursued under other legislation)
- Fences and walls in rear gardens (Unless they are considered to have a substantial detrimental effect on residential amenity and/or visual amenity)

The Council will advise, where appropriate, if it can refer the matter to another agency or whether it has any other legislative power to enable it to address the issue. Customers should seek their own legal advice for civil or private matters.

4.6. The Council will also not pursue any enforcement complaints that are anonymous or vexatious or complaints which are non-specific or vague in their nature. The Council will attempt to further understand complaints such as this, but will not log them for investigation until the relevant information is obtained. If complaints such as this are received they will only be acted upon in circumstances where there may be an immediate criminal offence or a threat to public safety.

## 5. Breaches of Planning Control

5.1. Enforcement action is necessary to ensure the integrity of the Development Management process and the Council recognises the importance of establishing effective controls over unauthorised development.

5.2. A breach of planning control is the carrying out of development without the granting of planning permission from the Council, or deemed permission by a Government Order. Development is defined by Section 55(1) of the Town and Country Planning Act 1990 (as amended) as

**‘the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land’.**

5.3. The type of matters that can be considered as breaches of planning control are as follows:

- Failure to comply with any condition or limitation attached by a planning permission
- Unauthorised advertisements
- Unauthorised works to protected trees, trees in a conservation area or protected hedgerows
- Unauthorised building works and/or engineering operations
- Works to a listed building without consent
- Land or buildings that are untidy or in poor condition and affecting the amenity of an area
- A change of use to land or building that has occurred without planning permission

5.4. Any matters that relate to time limits for taking enforcement action will be considered in line with Section 171B of the Town and Country Planning Act (1990).

5.5. In 2018 the Council will be introducing its Community Infrastructure Levy (CIL), in line with the CIL Regulations 2010. The enforcement of the requirements of CIL regulations will be approached in a manner consistent with the Local Enforcement Plan.

## 6. Level of Impact

6.1. To ensure the most effective use of resources all reports that are investigated are assessed for impact and then prioritised. The impact determines the speed within which the case will be investigated and includes the assessment of the type and extent of the harm caused.

6.2. There are three levels of impact;

**High** – i.e. where significant or irreversible harm is likely to be caused if the Council do not act immediately. For example;

- Unauthorised works to listed buildings
- Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation area
- Development that causes irreversible demonstrable harm
- Development of an access that could cause significant risk to the public

**Medium** – i.e. where there is significant public concern or where there is potential for significant harm to be caused. For example;

- Breaches of planning conditions
- Unauthorised developments or uses
- Unauthorised advertisements that affect highway safety

**Low** – i.e. smaller scale infringements which do not result in significant or irreversible harm. For example;

- The erection of unauthorised advertisements
- Unauthorised building of walls or fences
- Unauthorised development, which is likely to be permitted development, receive planning permission or has minimal or no impact on local amenities

6.3. For any case that is not high impact it is our aim to inform customers of our likely course of action within 20 working days of receiving a report. Our standards for responding to each level of impact are shown below;

Task	Impact		
	High	Medium	Low
Register and Review	Immediately	Within 3 working days	Within 5 working days
Site Visit	Within 24 hour (excluding weekends)	Within 7 working days (only if necessary)	Within 15 working days (only if necessary)
Customer informed of course of action	Within 2 working days	Within 20 working days	Within 20 working days

6.4. As any investigation commences the impact level of a case may change and we will endeavour to ensure that customers are kept up to date for the duration of the case. After the Council has informed the customer of the initial course

of action, the regularity of update will be proportionate to the action that is being taken.

6.5. The level of investigation undertaken for matters that are low impact will be in proportion to the risk that is presented and the quality of information and evidence received. Site visits will only be undertaken where it is necessary to obtain further evidence before determining a course of action. We will not as a matter of course visit all sites and will initially assess all low impact reports in line with the criterion set out in 3.3.

6.6. Where formal enforcement action commences the customer and the land owner will be provided with specific information in relation to the action in order to ensure they understand what action is being taken and the timescales attached to this. These timescales will vary and reflect the impact level given to the specific matter.

6.7. When an investigation is closed, the customer will be advised and the reasons for closure will be explained to them.

6.8. The Council will record and monitor performance in relation to the above timescales alongside other key measures. These will be included within the corporate performance reporting process.

## **7. Interventions and Powers**

7.1. There are a variety of formal powers available to the Council in relation to planning enforcement. The Council will, where appropriate, seek to resolve any breaches voluntarily in the first instance.

7.2. When formal powers are used to address specific circumstances the timescales and requirements for these vary depending on the power used. Specific guidance on the powers available can be found on the Council's website and when a specific power is used within a case, the customer will be provided with information in relation to that power. Some of the powers available to the Council are as follows ;

- Planning Contravention Notice (PCN)
- Enforcement Notice
- Breach of Condition Notice (BCN)
- Stop Notice
- Temporary Stop Notice
- Injunction
- Section 215 Notice
- Section 330 Notice
- Listed Building Enforcement Notice
- Repairs Notice
- Discontinuance Notice

- Removal Notice
- Prosecutions in relation to advertisements and TPOs

7.3. For more information on the specific power, related timescales and rights of appeal please refer to <https://www.gov.uk/guidance/ensuring-effective-enforcement> .

7.4. As part of the formal process the Council will also consider carrying out works in default or direct action to directly resolve any breaches that relate to a S215 Notice or an enforcement notice that have not been complied with. The Council will then take steps to recover these costs from the land or property owner.

## **8. Policy Review**

8.1. This policy will be reviewed on a bi-annual basis or as required due to legislative changes

## **9. Feedback on Our Service**

9.1. The Council encourages and welcomes feedback on its services. If you wish to provide feedback you can do so by visiting:  
[www.west-lindsey.gov.uk/feedback](http://www.west-lindsey.gov.uk/feedback)

## **Further Information**

### **Housing and Environmental Enforcement Team**

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