

Local Enforcement Plan



East Cambridgeshire
District Council

Contents

- 1. What is the Local Enforcement Plan? P3**
- 2. The role of the Planning Enforcement team P4**
- 3. Regulations P5**
- 4. Definitions P5**
- 5. How to report a breach in planning control P6**
- 6. How we investigate an alleged breach P7**
- 7. How we determine appropriate action when a breach is confirmed P8**
- 8. The Enforcement toolkit P9**
- 9. Using default powers and taking direct action P10**
- 10. Retrospective planning applications P11**
- 11. Circumstances in which the Council is unable to take enforcement action P11**
- 12. Working with other agencies P12**
- 13. How to make a complaint P12**
- 14. Reviewing this plan P12**



1. What is the Local Enforcement Plan?

A key principle in East Cambridgeshire District Council's approach to Planning is to support sustainable growth.

For growth to be sustainable it needs to consider the needs of the environment and ensure our district is an enjoyable place to live, work and visit.

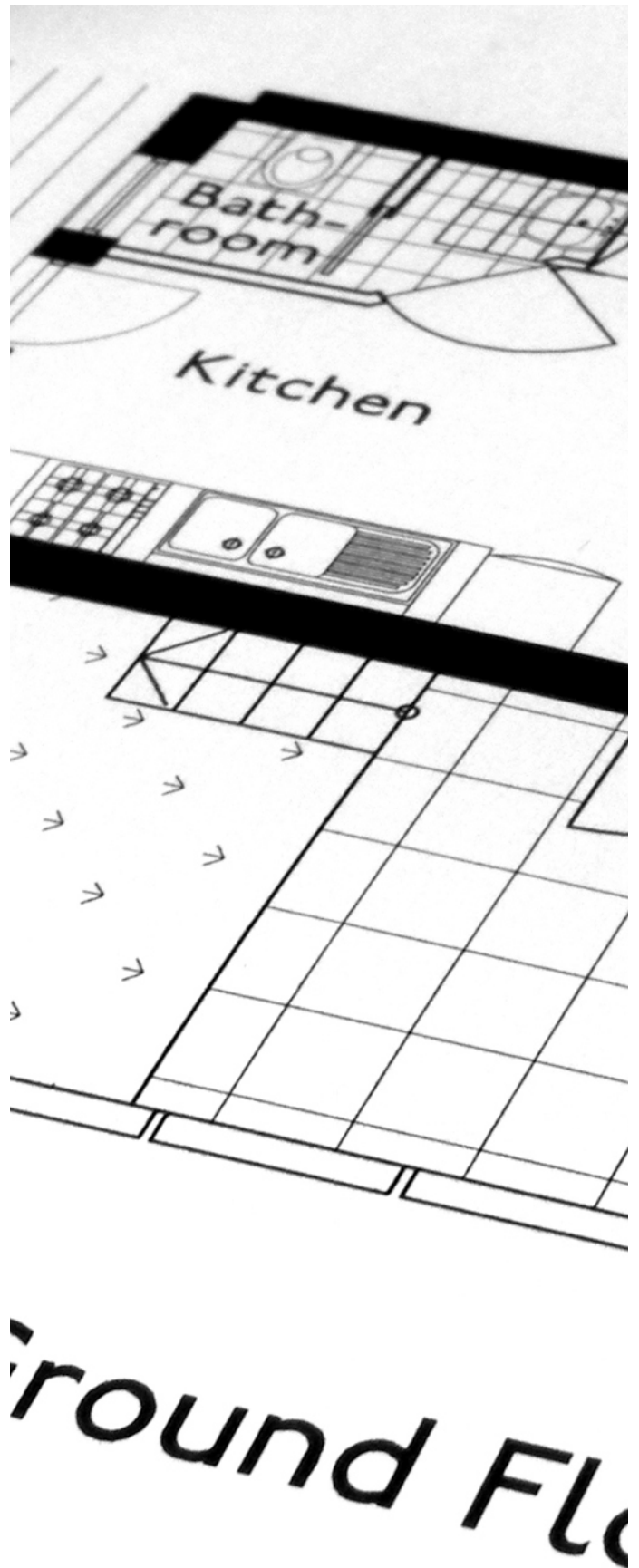
To ensure that the credibility of the planning system is not undermined, the Council has a Planning Enforcement Team who work in accordance with this Plan.

Our Local Enforcement Plan explains our approach to achieving planning compliance within East Cambridgeshire.

The purpose of the Plan is to ensure:

- That landowners, developers and occupiers comply with planning conditions
- That serious or irremediable harm occurring as a result of breaches in planning control is addressed
- That breaches in planning control are addressed reasonably, appropriately and proportionately

Our Plan also sets out what action can be taken, and how decisions will be made if and when formal action is pursued.



2. The role of the Planning Enforcement team

We operate both a reactive and proactive approach to enforcement.

As well as investigating matters reported to us, we also identify breaches ourselves; for example, by monitoring compliance with planning conditions attached to approved applications, and dealing with unauthorised advertising.

Each investigation is unique and must be considered on its own merits.

Where a breach of planning control has been confirmed, in the first instance our officers will engage with the owner/occupier or developer to resolve the breach through negotiation.

However, in certain circumstances this will not be appropriate and further action will be considered necessary to remedy the planning harm being caused.

The Council will only take action which is proportionate to the planning harm and to the seriousness of any breach of planning control.

All officers undertaking enforcement activities are duly authorised under the Council's scheme of delegation www.eastcambs.gov.uk/sites/default/files/Part%203%20-%20Responsibility%20for%20Functions%20-%20C.%20Regulatory%20Committees%20REVISED.pdf and appropriately trained.

We aim to be:

- efficient
- effective
- fair
- transparent
- accountable
- proportionate
- consistent
- targeted

What we can and cannot investigate

What we can investigate:

- unauthorised building or engineering works
- the change of use of land or buildings without planning permission
- non-compliance with conditions and obligations attached to planning permissions
- unauthorised works to listed buildings
- unauthorised demolition works
- unauthorised works to trees subject to Tree Preservation Orders and trees within conservation areas
- unauthorised advertisements which require consent under the Town and Country Planning (Control of Advertisements) Regulations 2007
- untidy land
- unauthorised caravan sites

What we cannot investigate:

- Boundary and land ownership issues, legal covenants or easements
- Party Wall Act issues
- Breaches of leases/tenancies
- Neighbour disputes



3. Regulations

Our Local Enforcement Plan accords with the Government guidance contained within paragraph 59 the National Planning Policy Framework (NPPF) which states:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

Our Planning Enforcement officers also operate in accordance with:

- The general principles of good enforcement which are contained in the Government guidance Enforcement and Post-Permission Matters www.gov.uk/guidance/ensuring-effective-enforcement
- The Government's Regulators' Code Regulators' Code - GOV.UK www.gov.uk/government/publications/regulators-code
- East Cambridgeshire District Council's Corporate Enforcement Protocol www.eastcambs.gov.uk/sites/default/files/Enforcement%20Protocol.pdf.
- The principles of the Human Rights Act 1998, The Equality Act 2010 and the Public Sector Equality Duty to ensure that unlawful discrimination is eliminated, and all action is taken in a fair and consistent manner.

4. Definitions

There are two key definitions which planning enforcement consider:

What is development?

The meaning of development is defined within Section 55 of the Town and Country Planning Act 1990 (as amended), which states:

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.

What is a breach in planning control?

A breach of planning control is defined within Section 171A of the Town and Country Planning Act 1990, which states:

The carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.

5. How to report a breach in planning control

To investigate a potential breach of planning control, the Council requires:

- the address of the property or a map showing the location of the land at which the alleged breach is taking place
- full details of the alleged breach, including the scale and timings where possible
- the complainant's name, address, email and telephone number

To report a potential breach in planning control please complete the online complaints form at: www.eastcambs.gov.uk/sites/default/files/Planning%20Enforcement%20Report%20Form_2022_0.pdf

Alternatively, you can:

- telephone **01353 665555**
- email planning.enforcement@eastcambs.gov.uk
- visit the Council offices at The Grange, Nutholt Lane, Ely, Cambs, CB7 4EE
- write to Planning Enforcement, East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambs CB7 4EE

Anonymity and confidentiality

We will not accept anonymous reports unless there are exceptional circumstances, such as unauthorised works being carried out on a listed building, or unauthorised works to a tree subject to a Tree Protection Order. This is to ensure we are accountable in our actions, and to reduce the likelihood of vexatious or commercially motivated complaints.

The identity of the complainant will not be divulged unless the Council is required to do so by legislation, or the complainant is required to act as a witness in an appeal or in court.

However, in some cases, the person responsible for the breach could identify who has complained due to the nature of the report. If a complainant is concerned about this, they can request that their Parish, Town or City Council, or an elected member makes the report on their behalf.

The file will remain confidential during the investigation, and once the case is closed, any personal data will be redacted. Details of the file will not be made available to any person who does not need to know the information.

Any request for information will be considered in accordance with the General Data Protection Regulation (GDPR), Freedom of Information Act (FOI) and Environmental Information Regulations (EIR).

6. How we investigate an alleged breach

Once a report is received by the Planning department we will:

- Record and acknowledge the complaint within 5 working days
- Conduct a preliminary investigation and a site visit, where necessary, within 10 working days
- Provide an initial response to the complainant within 15 working days

Complainants will be provided with:

- The name and contact details of the investigating officer
- Officers cannot provide a running commentary, but updates at key stages of the investigation will be provided, such as, whether a breach has been established, when the Council is taking action, when an application is received, when a Notice has been served, and whether an appeal has been submitted

During an investigation, further site visits and monitoring may take place as well as communications with those involved in the alleged breach. Site visits usually involve taking photographs, which may be used if the case results in court proceedings.

Enforcement and planning officers have the right of entry to non-residential land and buildings. They have further powers to enter residential properties when giving at least 24 hours' notice, and can apply for a warrant from the Magistrates' Court to gain access if their initial attempts to gain entry are unsuccessful.

Investigations are prioritised in order of the harm caused or likely to be caused, therefore some cases do take longer to investigate. When considering the harm caused, this will relate to harm to the residential and/or visual amenity. It does not include loss of value to a property, business competition, loss of a view, trespass, or other private matters such as property rights, legal covenants or easements.

To assist in the investigation, the Council may serve the following Notices on the owner and/or occupier of the land to obtain further information, assess whether a breach of planning control has occurred, and, if so, ascertain the seriousness of the breach:

- Planning Contravention Notice under Section 171C of the Town and Country Planning Act 1990 as amended
- a Notice under Section 330 of the Town and Country Planning Act 1990 as amended
- a Notice under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

There is no right to appeal against these Notices, and failure to comply is a criminal offence for which the recipient may be prosecuted.

The Council's authorised officers will deal with anyone involved in a potential planning breach in a courteous, impartial and objective manner.

The Council does not tolerate bullying, harassment or verbal or physical abuse of its officers in the course of their duties. Appropriate action will be considered against these behaviours which may include civil legal action and/or notification to the police.

7. How we determine appropriate action when a breach is confirmed

In deciding what action to take when a breach has been confirmed we will consider:

- whether planning permission would be granted (if applied for)
- whether the development could be altered to comply with legislation and/or policy
- any claims of immunity
- the effects of the breach and any harm being caused
- whether it is expedient, necessary, and in the public interest to take enforcement action

Such decisions are made at the Council's discretion and each case will be considered on its own merit.

When a breach of planning control has been identified, in most circumstances we will communicate with the person responsible to explain what steps are required to resolve the breach, the timescale within which they need to take action, and the potential consequences of non-compliance.

We will leave direct action and prosecution as a last resort, but where an educational and advisory approach has not succeeded in remedying the harmful effects of a planning breach, continued negotiations will not be allowed to delay formal enforcement action.

When serious harm is considered to be caused

In this instance we will take firm action and there will be little opportunity for the owner/occupier or developer to alleviate a breach before formal enforcement action commences.

If we need to take enforcement action

The Council will take a consistent, clear and fair approach to enforcement having balanced the need for environmental protection against the desire to encourage sustainable development.

We will produce a written report setting out the background, the planning harm, and any relevant planning policy that justifies the recommended course of action.

We will only issue a Notice when we have evidence that a breach of planning control has occurred that has, or is likely to, cause demonstrable harm to the public amenity or the environment.

Any enforcement action taken and the required remediation will be proportionate to the nature of the breach.

There may be the right to appeal to the Planning Inspectorate. This process can take some months and enforcement action is usually held in abeyance pending the outcome of the appeal.

Where a breach involves the commission of a criminal offence

The Council will contact the person responsible for the breach. Failure to comply with any subsequent requests may result in the Council prosecuting for the criminal offence and a summons being issued to attend a Magistrates' Court.

Criminal liability arises if there is non-compliance with any Notice enforcing against a breach of planning control. A person guilty of an offence is liable on summary conviction or on conviction on indictment to a fine.

8. The Enforcement toolkit

The Enforcement toolkit includes, but is not limited to:

- negotiation - encouraged in all but the most serious cases as the best way to resolve a breach. This could include asking the person responsible to submit a retrospective planning application within a specified time frame or to seek pre-application advice. The Council will not invite a retrospective planning application if the unauthorised development is contrary to policy, or it appears to have the potential to cause harm which could not be satisfactorily mitigated by the use of planning conditions
- Listed Building Enforcement Notice - requires remediation of unauthorised works to either bring a building back into its former state, or, where that is not practical or desirable, to alleviate the effect of the unauthorised works
- Enforcement Notice - requires a breach of planning control to be remedied. Government guidance states that such Notices should only be served when it is expedient to do so
- Section 215 Notice - Section 215 of The Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to take enforcement action where the amenity of an area is adversely affected by the condition of land
- Breach of Condition Notice - requires its recipient to comply with the terms of a planning condition specified by the Local Planning Authority. The recipient of the Notice will be in breach of the Notice if, after the compliance period, they have not complied with the condition(s), the steps specified have not been taken, or the activities specified have not ceased
- Planning Enforcement Order - enables the Council to take action in relation to a breach in planning control notwithstanding that the statutory time limits have expired. For example, where there has been deliberate concealment of unauthorised development
- Stop Notice - prohibits any or all of the activities which comprise the alleged breach(es) specified in a related Enforcement Notice, ahead of the deadline for compliance noted in the Enforcement Notice
- Temporary Stop Notice - requires an activity which is a breach in planning control to be stopped immediately
- Removal Notice - requires the removal of a structure being used for the display of an unauthorised advertisement
- Action Notice - requires the removal of an unauthorised advertisement from a surface
- Community Protection Notice - requires the cessation of any activity considered to be harming the community's quality of life
- prosecution - the Council may decide to prosecute or formally caution any person committing a criminal offence which includes; non-compliance of statutory Notices, unauthorised works to listed buildings, demolition in a conservation area and the unlawful display of advertisements. The Council may also take action under the Proceeds of Crime Act 2002
- injunction - the Council may apply for an injunction to restrain a breach in planning control that is occurring or is reasonably expected to occur. Such action is usually in response to a breach of an S106 planning obligation
- Direct Action - where appropriate, the Council will take direct action to ensure compliance with any Notice served that has not been complied with. The cost of such action will be recovered from the owner or other responsible party

Further information on planning enforcement and the various options available to the Council can be found at: www.gov.uk/guidance/ensuring-effective-enforcement

9. Using default powers and taking direct action

If the requirements of an Enforcement Notice or S215 Notice are not met within the period of compliance specified in the Notice, Sections 178 and 219 of The Town and Country Planning Act 1990 (as amended) grant the Local Planning Authority additional powers to:

- enter the land and take steps to satisfy the requirement(s) of the Notice
- recover from the owner of the land any expenses reasonably incurred in doing so

Once the time for compliance in the Notice has expired, an officer will visit the site to check whether the requirements of the Notice have been complied with. If the requirements have not been complied with, the Council will consider whether it is expedient to take further action, which may include prosecution, an injunction and/or direct action. Direct action may be taken either in isolation or in conjunction with prosecution or injunction action.



If it is decided that direct action is appropriate the Council will:

- write to the owner/responsible parties to advise them of its intention to take direct action giving a reasonable notice period. The notice period will be judged based on the nature of the breach and the individual circumstances
- appoint an officer to project manage the process and works on-site to ensure that the requirements of the Notice are complied with
- store securely any materials, debris or other items removed from premises throughout the course of undertaking direct action
- advise the owner(s) of these items how and when they can recover them. If the items are not recovered the Council may choose to dispose of or sell these to recover the expenses of taking direct action
- invoice the owner/responsible party. The expenses recoverable will include all costs the Council considers reasonable in conducting the direct action
- take reasonable steps to recover the expenses, and if unpaid, the recoverable sum will be recorded against the property in the register of local land charges

10. Retrospective planning applications

If a retrospective application is made for planning permission to try and regularise unauthorised development, publicity and consultation will be carried out in accordance with legislation and will provide an opportunity to comment on material planning considerations before a decision is taken.

The Council will not usually take enforcement action whilst the application is being determined unless the application has been submitted contrary to advice; i.e. the unauthorised development is contrary to policy and/or causing planning harm.

If the applicant is refused planning permission and the breach remains unresolved, enforcement action is likely to be pursued.

The Council has the power to decline to determine a retrospective planning application for development which is already the subject of a pre-existing Enforcement Notice.



11. Circumstances in which the Council is unable to take enforcement action

There are certain, limited, circumstances where the Council will not be able to take formal enforcement action, these include:

- where the time limit for acting in respect of an ongoing breach of planning control has expired. Section 171B of the Town and Country Planning Act 1990 (as amended) explains the timescales after which ongoing breaches of planning control become immune from enforcement action. In such cases an application for a Certificate of Lawfulness may be submitted
- development involving the erection of a building or structure, or the change of use of a building to a dwelling is immune from enforcement action after four years from the breach of planning control. All other changes of use of land or buildings and breaches of conditions are immune from enforcement action after 10 years. There are no time restrictions to the issue of Section 215 (untidy land) Notices or action against unauthorised works to a listed building
- where the development benefits from permitted development rights under the provisions of the General Permitted Development Order 2015 (as amended), provided that all the relevant restrictions and conditions have been met

12. Working with other agencies

If during an investigation it is appropriate to do so, Planning Enforcement officers will jointly investigate complaints with other Council officers where there is a joint interest, and likewise with external agencies and partners, which may include requesting and sharing relevant information. Such external agencies and partners include, but are not limited to, those listed below:

- Parish, Town or City Councils
- Environment Agency
- Internal Drainage Boards
- Lead Local Flood Authority
- Health and Safety Executive
- Cambridgeshire County Highways and Rights of Way Teams
- Cambridgeshire County Council Waste Team
- Rural Crime Action Team
- The Wildlife Trust
- Neighbouring district or county councils

The Council is committed to safeguarding and our policy can be found at the following link:

www.eastcambs.gov.uk/sites/default/files/Child%20and%20Vulnerable%20Adult%20Safeguarding%20Policy%202017-2020.pdf

13. How to make a complaint

- If you wish to make a complaint you can find advice about the Council's complaints procedure by following this link: www.eastcambs.gov.uk/customer-services/customer-feedback-and-complaints

Alternatively, you can:

- contact the officer dealing with your case directly
- telephone us on **01353 665555**
- email planning.enforcement@eastcambs.gov.uk
- contact your parish council or a local councillor
- write to – Planning Enforcement, East Cambridgeshire District Council, Nutholt Lane, Ely, Cambridgeshire CB7 4EE

14. Reviewing this plan

This Local Enforcement Plan will be reviewed every three years and published on the Council website.

Plan owner: Juleen Roman – Planning Enforcement Team Leader

Last reviewed: Jan 2023

Next review: Jan 2026



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District Council