

Local Enforcement Plan

Planning Enforcement

To make an enforcement enquiry and for general enforcement advice:

Report it: by visiting [Planning enforcement | West Lindsey District Council \(west-lindsey.gov.uk\)](http://www.west-lindsey.gov.uk/planning-enforcement)

Phone: 01427 676676

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

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.uk) 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

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: If you wish to feedback on the service or make a complaint you can do so by e mailing experience@west-lindsey.gov.uk

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.
- 1.3. Paragraph 59 of the NPPF sets out that *“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.”*

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 (July 2021)
 - Planning Practice Guidance (March 2014, updated July 2019)
<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 <https://www.gov.uk/government/collections/planning-practice-guidance/>

2.3. In April 2023 West Lindsey District Council adopted the Central Lincolnshire Local Plan, which replaces the Local Plan adopted in 2017. The Local Plan contains policies and allocation for the growth and regeneration of Central Lincolnshire over the next 20 years. Its policies may inform and influence any enforcement action taken.

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. More recently, guidance (<https://www.gov.uk/guidance/ensuring-effective-enforcement>) also advises that Local Authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

3.4. Alongside this 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,

3.5. Enforcement action also cannot be taken when an unauthorised development or change of use has occurred over a long period of time without being brought to the attention of the Council, these are;

- (i) 4 years for unauthorised operational development or change of use of a building to use as a single dwelling.
- (ii) 10 years for a material change of use of land and building or a breach of a condition imposed on a planning permission.

3.6. 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 or exempt from action over time lapsed.

3.7. 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.

3.8. 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 <https://www.planningportal.co.uk/permission>

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

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 Planning Enforcement Team 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). (See section 3.5)

5.5. In 2018 the Council introduced 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;

- Unauthorised works to listed buildings (not currently occurring)
- 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
- Any other lower level infringements

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	Within 1 working day	Within 3 working days	Within 5 working days
Site Visit	Within 24 hour (excluding weekends)	Within 7 working days (only if necessary)	Will not take place unless necessary
Customer informed of course of action	Within 2 working days	Within 15 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. In the majority of low priority cases only an initial desktop investigation will occur and site visits will not be undertaken unless there is evidence to suggest that any breach may present a higher risk. We will initially assess all low impact reports in line with the criterion set out in 3.3 and 3.4. This process will require the complainant to provide information that demonstrates the level of risk and harm caused and cases will not be progressed where this additional information is not provided. It is very unlikely that where the risk level is low, any formal action will be taken.

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

9.2. The Council has a Customer Feedback Policy which can be found here <https://www.west-lindsey.gov.uk/council-democracy/have-your-say/comments-compliments-complaints> this sets out how the Council deals with complaints, including those that are unreasonable or vexatious. When considered complaints relating to planning enforcement, the same approach will be taken if it is deemed unreasonable or vexatious.

Version Control		
1.	Approved	March 2018
2	Approved	

Enforcement investigation process

This is the usual process followed when a suspected breach of planning has been reported however it can be subject to change depending on circumstances of a case.



Step 1

Report received

Reports of suspected breaches should be made via the online reporting system, www.west-lindsey.gov.uk/planning-building-control/planning/planning-enforcement/report-planning-enforcement-breach. Please provide all relevant information needed to initially consider the breach.

Step 2

Acknowledged

An officer will check to establish if the matter can be dealt with by Planning Enforcement and where possible referred to relevant department or agency if required. An impact level will be assessed and acknowledgment sent.

Step 3

Investigation underway

Initial check will be made to establish if a breach of planning may have occurred. This will include checking planning history, constraints and gathering evidence then assessing if a site visit is required and if so undertaking this.

Step 4

Breach identified?

Yes - continue to step 5

No - the case will be closed and a reason for closure will be sent to the complainant

Step 5

Deciding appropriate outcome

- Regularise with application
- Negotiate remedial work
- Negotiate removal of unauthorised works

Step 6

Successful application or negotiations?

No - continue to step 7

Yes - the case will be closed and an update given to the complainant

Step 7

Consider expediency of formal action

An assessment will be made against the local and national policy whilst considering the harm caused and material planning considerations. There will also be careful consideration towards any relevant appeal decisions/case law and human rights. Finally, consideration is taken if it would be in the public interest to take formal action.

Step 8

Expedient to take action?

No - the case will be closed and an update given to the complainant.

Yes - continue to step 9

Step 9

Formal action

If it is deemed expedient, formal action will be taken to rectify the breach of planning. If the works are then not complied with it may result in works in default or legal proceedings.