

Appendix B

Planning Enforcement Prioritisation Strategy

A helpful guide on when formal enforcement action will be taken.

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Introduction – Effective Enforcement

As a Local Planning Authority, we have to balance effective use of our limited resources with our statutory requirements to uphold planning regulations. This is a new guide which outlines our approach on when formal enforcement action will be taken. This approach introduces a two-tier prioritisation strategy.

The Planning Enforcement team currently receives over 700 reports of suspected breaches of planning control every year. Dealing with these reports effectively is a challenge.

New Prioritisation Strategy

This new Strategy should be read in alongside the Joint Local Planning Enforcement Plan. It builds on the principles laid out within this policy document and the concept of expediency.

It is at the Council's discretion whether to take formal enforcement action on breaches of planning control. Planning breaches may be unintentional or be considered technical or trivial. In line with government guidance within the National Planning Policy Framework (NPPF) 2021 and associated Planning Practice Guidance, the Council will take action when it is considered fair and reasonable to do so and it is proportionate to any harm caused.

In some cases, although there is a breach in planning control, the harm caused will be of a minor nature, meaning action is not justified therefore it is not expedient to pursue the case.

A new two-tier prioritisation strategy has been introduced, which is combined with a renewed set of requirements of information needed to get an enforcement report registered.

The first stage of prioritisation is a checklist at the initial stage of investigation to help to determine whether any further investigation or negotiation is required or whether the case should be closed.

The checklist provides guidance to ensure that all enquiries are treated equally and that any action taken is fair and based on planning merits. Our customers are welcome to use the checklist to help decide if the matter should be reported but should note that it is our assessment that will determine if an investigation is progressed, and at what priority.

The second stage of prioritisation is used later in the process and is a more detailed exercise performed by the case officer and is used where negotiation fails. Here the officer ranks the harm to determine if a development causes sufficient harm to warrant additional, formal action. The method ensures efficiency and fairness. The checklists outlined in the guide require full consideration of the harm caused by a development and using a scoring system enables a consistent approach.

There is one checklist for operational development and one checklist for material change of use. Each checklist asks 3 questions, and each question is scored out of 3.

Does the Development cause:

- 3 points - SIGNIFICANT HARM
- 2 points - MEDIUM HARM
- 1 point - LOW HARM
- 0 points - NO HARM

Submitting an Enforcement Complaint

Before registration of a complaint, the following information is required:

1. Full address of the property, or location of the land (as close as possible), suspected to be in breach of Planning control.
2. Confirmation that works or use are being undertaken. Please note that if works have not commenced, no breach has occurred, and we cannot investigate.
3. Full details of suspected breach of planning control.
(A complaint which says development does not accord with approved plans is not sufficient. Please explain fully why you think a breach has occurred.)
4. Your details including your contact details – anonymous complaints will not normally be investigated.

Photos are helpful so it is recommended they are provided with the initial report.

We will only investigate a complaint where full information (1 – 4, above) is submitted. If all information is not provided, we will respond explaining what additional detail is required. We will then update the complaint to include your additional information before it is assigned to an officer.

Harm Framework - Tier 1

This assessment will be undertaken following the submission of a complaint or after an initial visit.

Where the reported allegation achieves a score of 3, we will progress the investigation to the negotiation stage.

Where the reported allegation achieves a score of 2 or under, the case will be closed with no further action taken.

Points from the two matrices set out below will be combined to achieve an overall score.

| Low harm (1 point) | Medium harm (2 points) | Significant harm (3 points) |
|--|--|---|
| Unauthorised signage and advertisements | Unauthorised development which would adversely affect the character and appearance of a conservation area or the setting of a listed building. | Unauthorised works to a listed building or ancient monument |
| Any breach of planning control which is of a temporary nature. | Residential extensions which do not benefit from permitted development rights | Development/changes of use with serious implications upon the continued health and wellbeing of the public in Babergh and Mid Suffolk, such as industrial/commercial uses |
| Unauthorised fences walls and gates | Breach of planning conditions which results in harm to general amenity. | Large scale development where a serious impact is felt over a wide area |
| Unauthorised telecommunications equipment or satellite dishes on residential dwellings | Development of poor-quality housing, including large houses of multiple occupancy, flat conversions and residential use of outbuildings | Unauthorised works in progress to a tree protected by a tree preservation order or tree within a conservation area |

| | | |
|-------------|---|---|
| Untidy land | Unauthorised changes of use where the implications do not give rise to significant harm to amenity. | Non-compliance with pre-commencement conditions |
|-------------|---|---|

| Descriptor | (0) | (1) | (2) |
|---|-----|-----|-----|
| Is the breach in a conservation area? | No | Yes | |
| Is the property subject to an article 4 Direction? | No | Yes | |
| Is the untidy land causing an offensive smell / odour or health hazard? | No | Yes | |
| Has the untidy land been causing an issue for more than a month? | No | Yes | |
| Is a site visit required to determine the extent of harm? | No | | Yes |
| Is there a highway safety issue? | No | | Yes |
| Is there a breach of a tree preservation order? | No | Yes | |
| Is this a statutory listed building? | No | Yes | |

Harm Framework – Tier 2

Two of the following tables – Table 1 plus either Table 2a or Table 2b – will be used to make a decision on whether formal enforcement action needs to be taken, in instances where negotiation has failed. Officers will assess the development in breach of planning control and rank the harm to determine if the breach causes significant harm, medium harm or low harm.

The score from Table 1, plus the score from Table 2a or Table 2b, will determine if we proceed to formal enforcement action.

Table 1:

| | |
|-----------------------------|---|
| Significant harm = 3 points | There is a serious harmful impact on the built environment or a serious impact on public health or amenity. It is not considered that planning consent would be granted. |
| Medium harm = 2 points | There is some impact on the built environment or some impact on public health or amenity. In cases where there is medium harm in some instances planning consent may not be granted. However, insufficient harm is caused by the development to warrant formal action. This will be based on experience and the likelihood of success at appeal of any enforcement proceedings. |

| | |
|--------------------|--|
| Low harm = 1 point | There is a small impact on the built environment or a small impact on public health or amenity. In these cases, planning permission would likely be granted. |
| No harm = 0 point | There is no harm. |

Scoring System

If the development causes significant harm and is awarded a Table 1 score of 3, the case will proceed directly to formal enforcement action.

If the development does not achieve a score of 3 from Table 1, it will then be assessed against either Table 2a or Table 2b. A cumulative score of 4 or more will then be required to proceed to formal action.

Formal action will involve the service of a Notice. Non-compliance with a formal Notice is a criminal offence.

A cumulative score of 3 or less means that the case will be closed as not expedient to pursue and no further action will be taken.

Checklist for Operational Development

The table below will be used for all types of operational development including, extension to the front, rear, side and roof extension of residential and commercial properties.

3 questions – Rank the harm out of 3.

Table 2a:

| Descriptor | No | Low Harm No Action | Medium Harm Retrospective action | Significant Harm Action taken |
|---|----|-----------------------|-------------------------------------|----------------------------------|
| Does the development adversely impact the character and appearance of the host building or is the development inappropriate to the size of the plot | 0 | 1 | 2 | 3 |
| If the development can be seen from the public realm, does the development adversely impact the appearance of a conservation area or the wider street scene | 0 | 1 | 2 | 3 |
| Does the development adversely impact the amenity of adjoining or surrounding occupiers | 0 | 1 | 2 | 3 |

Scoring System

If the development causes significant harm and is awarded a Table 2a score of 3, the case will proceed directly to formal enforcement action.

If the development does not achieve a score of 3 from Table 2a, then a cumulative score (from Table 1 and Table 2a) of 4 or more will be required to proceed to formal action.

Formal action will involve the service of a Notice. Non-compliance with a formal Notice is a criminal offence.

A cumulative score of 3 or less means that the case will be closed as not expedient to pursue and no further action will be taken.

Checklist for Material Change of Use

The table below can be used for all changes of uses such as HMO's, residential conversions, living accommodation in outbuildings, large scale industrial developments, material change of use, places of worship, shops and businesses.

3 questions – Rank the harm out of 3.

Table 2b:

| Descriptor | No | Low Harm No Action | Medium Harm Retrospective action | Significant Harm Action taken |
|--|-----------|-----------------------------------|---|--|
| Is the use unsuitable for the location | 0 | 1 | 2 | 3 |
| Does the use need to be restricted through planning condition | 0 | 1 | 2 | 3 |
| Does the development create any undue noise or disturbance to neighbouring occupiers | 0 | 1 | 2 | 3 |

Scoring System

If the development causes significant harm and is awarded a Table 2b score of 3, the case will proceed directly to formal enforcement action.

If the development does not achieve a score of 3 from Table 2b, then a cumulative score (from Table 1 and Table 2b) of 4 or more will be required to proceed to formal action.

Formal action will involve the service of a Notice. Non-compliance with a formal Notice is a criminal offence.

A cumulative score of 3 or less means that the case will be closed as not expedient to pursue and no further action will be taken.