

Canterbury City Council
Planning Enforcement Plan

December 2022

The Planning Enforcement Plan sets out how the council manages unauthorised changes of use, tree and building works to make sure that we protect and enhance our internationally significant heritage and environment and support the regeneration of our town centres and rural areas.

Good quality design and land use lies at the heart of creating a thriving district, which supports the local economy, community health and wellbeing.

The National Planning Policy Framework 2022 says that Local Planning Authorities:

“... should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area”.

The Planning Enforcement Plan implements the council’s Local Plan.

We recognise that when change of use and other development take place without planning permission it can have a detrimental effect on residents’ quality of life and the environment.

The council has the discretion to act to resolve this.

This plan describes how we will actively and efficiently tackle reports of potential planning breaches and, in doing this, deter future ones.

Potential breaches of planning

A breach of planning is when something has been done without planning permission, or where the quality of an area is adversely affected by, for example:

- a building does not have planning permission
- a ‘material’ change of use of land or buildings without planning permission
- land kept in very poor or untidy condition, if it has a significantly harmful effect on the character and appearance of an area
- cutting down or carrying out works to legally protected trees without consent
- removal of important hedgerows, as defined by the Hedgerow Regulations
- internal or external works to Listed Buildings without consent
- development not built in accordance with the approved plans
- non-compliance with conditions attached to a planning permission
- unauthorised display of adverts

Case Priorities

We receive a large volume of reported potential planning issues, therefore we prioritise cases.

Urgent Cases

- planning breaches that endanger life
- planning breaches that cause significant irreparable damage to listed buildings
- unauthorised works to Tree Preservation Order (TPO) protected trees and trees within Conservation Areas (where it is judged that those trees have a high amenity value and the works would cause significant harm to the amenity of an area)

High priority will be given to:

- planning breaches that cause serious damage to the environment or harm specially protected areas, such as Conservation Areas and other visually prominent development
- enabling the council's wider regeneration objectives to be met
- potential breaches that may cause significant harm to the living conditions of neighbours
- ensuring compliance with Section 106 legal agreements
- untidy sites which have a significant harmful impact on the amenity of the local area
- where repeated breaches occur that together have a cumulative harmful impact

Lower priority will be given to:

- all other cases, in particular those where the unauthorised development has relatively limited impact on the amenity of local residents and the local environment or is minor in nature and has become established over time

How to report a potential breach of planning

The council operates a reports-based system.

We investigate potential breaches of planning when these are reported by members of the public and councillors.

You can report potential breaches on the council's website [here](#)

You will be asked to provide:

- the address of the alleged breach, and where there is no address a description of the site
- a description of what has taken, or is taking, place
- if known, the contact details of the landowner and the person(s) carrying the activities
- other information that may assist our investigation, for example photographs, plans, or a log of the date and times that activities have taken place.
- what impact this has had on you and local amenities

If you report a potential breach of planning, you need to give us your name and contact details. We do not normally investigate anonymous complaints, unless they allege very serious breaches of planning control that can be identified clearly. Your identity will be kept confidential.

If we need further information to assist our investigation, we may contact you and we will also let you know the outcome of any investigation.

How we will update you about a reported potential breach

When you report a potential issue on the online reporting form [here](#) you will receive an immediate initial acknowledgement that we have received your report.

We will then make an assessment of the urgency of the case.

In cases assessed as urgent you will be told about the outcome or the next steps within a few days - once the investigations are complete.

In all other cases, you can expect to hear from us as to whether or not it is a planning matter and will be further investigated within a maximum of 28 days. Wherever possible we will inform you much sooner. You will also be given the name and contact details of the case officer who will be managing the investigation.

You will subsequently be informed of the conclusion of the council's investigation.

How we investigate

On receiving a report of a potential breach of planning, we will :

- check to see if it has planning permission
- check to see if there is a breach of planning (or if it is something that another team within the council or another organisation, such as Kent County council, is able to deal with and refer it to them to investigate)
- decide if the matter should be further investigated

If we decide that the reported breach should be investigated we will:

- decide on the priority for investigation

- decide how we will investigate, which may include the use of technology, such as drones

Once the initial investigation has taken place and if a breach has been found we will:

- decide whether it is expedient to take action and what action to take

If it is an urgent case, officers will visit the site as fast as possible. Where appropriate the police will be called.

Where appropriate, officers will use entry powers under the Planning Act (1990). Where entry is refused, or likely to be refused, a warrant will be obtained.

Investigation outcomes

The Planning Team will, wherever possible, try to resolve a breach without resorting to formal enforcement through the courts. Over 90% of planning breaches nationally are resolved in this way.

The Government says in the National Planning Practice Guidance :

“There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.”

“Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action may not be appropriate.”

However, where we decide that it is appropriate and proportionate to take formal action to deal with significant harm to the environment, the council will act robustly.

If a breach of planning has taken place officers, taking the advice of the legal team, will decide whether it is expedient and in the public interest to take action. This decision will take into account the council’s planning policies and whether there are harmful impacts of the development.

1. In instances where **development is judged by the council to cause harm**, the council will decide whether it is expedient to serve an Enforcement Notice or use any other powers that it has to address the harm including, where judged appropriate, seeking an injunction from the Court. This will include use of s215 Notices to deal with untidy sites which cause significant harm to the amenity of the local area and in exceptional circumstances, where immediate action is necessary and justified, the serving of a Stop Notice.
2. If there is a **breach but the council judges that there is no significant harm** caused by the development, the developer has the legal option to apply

for **retrospective planning permission**. Such applications are considered in the same way as a planning application made before the development has taken place.

Government advice is that action should not be used to penalise someone for carrying out development without first having obtained planning permission. The National Planning Practice Guidance states:

In deciding, in each case, what is the most appropriate way forward, local planning 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 considers that an application is the appropriate way forward to regularise the situation, for example, where [planning conditions may need to be imposed](#).*

3. If it is found that there has been **no material breach of planning control or work does not require planning permission**, that will be the end of the matter.
4. In all cases our findings and decisions, including photographs, will be recorded so that we have an accurate record.

Formal action is a last resort and in those cases where formal action is required, we will act when it is judged expedient to do so and proportionately to the nature and scale of the impact. The Planning Team will also have regard to legal advice about the likelihood of the success of taking such action, as well as the resource implications to the council.

Other teams within the council, Kent County Council or other public organisations may also need to be involved in cases and the Planning Team will work with the other organisations to resolve the matter.

Other 'non-planning' matters

Some issues are not within the remit or legal powers of the planning authority.

The Planning Team will check whether the issue can be investigated by another team within the council and, if so, we will refer the matter to that team to investigate. Where an issue can be investigated by another other organisation or agency we will refer the matter to that organisation or agency. We will let you know who we have referred your reported issue to, in order that you can contact them directly should

you wish to do so to obtain an update on your issue. We will not pass on your personal details when referring your reported issue to another organisation or agency.

Please note that planning issues that relate to minerals or waste fall under the remit of Kent County Council's Planning Department and any enquiry relating to this should be made to them directly.

Appendix 1 sets out some examples of issues that are dealt with by other organisations, agencies or other council teams.

Review of the Planning Enforcement Policy

The council will review this plan at least every three years.

Appendix 1

Examples of issues that may be dealt with by other council teams or other organisations

Issue	Who deals with it/ More Information?	Comment
Boundary Issues	A Solicitor	This is a civil matter. You may wish to contact a Solicitor for advice. You can check land ownership with HM Land Registry
Covenant Issues	A Solicitor	This is a civil matter. You may wish to contact a Solicitor for advice. You can check land ownership with HM Land Registry
Party Wall Issues	Refer to the document Party Walls and Building Work	You may wish to contact a Surveyor for advice.
Smoke nuisance	Canterbury City Council Environmental Health team	https://www.canterbury.gov.uk/environmental-problems/report-noise-smoke-or-smell-problem
Graffiti	Kent Police Canterbury City Council Environmental Enforcement	www.kent.police.uk https://www.canterbury.gov.uk/environmental-problems/report-graffiti
Fly tipping (this is the illegal depositing of items onto land, such as building rubble and household rubbish)	Kent Police or Canterbury City Council Environmental Enforcement	www.kent.police.uk (or call 999 where appropriate) https://www.canterbury.gov.uk/environmental-problems/report-flytipping/
Noise nuisance	Canterbury City Council Environmental Health team	https://www.canterbury.gov.uk/environmental-problems/report-noise-smoke-or-smell-problem
Dumping of waste	Kent County Council Waste and Minerals	www.kent.gov.uk

	team or Environment Agency	www.gov.uk/government/organisations/environment-agency
Abandoned vehicles	Canterbury City Council Parking	https://www.canterbury.gov.uk/environmental-problems/report-abandoned-vehicle/
Private sector housing issues	Canterbury City Council	https://old.canterbury.gov.uk/contact-us/?category=Housing
Council housing maintenance issues	Canterbury City Council	https://old.canterbury.gov.uk/contact-us/?category=Housing
Development on public highways and pavements, including obstruction of highways	Kent County Council Highways and Transportation team	www.kent.gov.uk
Public footpaths overgrown or obstruction to public rights of way	Kent County Council Public Rights of Way team	www.kent.gov.uk
Works to trees in the public highway	Kent County Council Highways and Transportation team	www.kent.gov.uk
Anti-social behaviour	Kent Police	www.kent.police.uk or https://www.canterbury.gov.uk/environmental-problems/report-anti-social-behaviour/
Asbestos or other dangerous / toxic substances on site	Health and Safety Executive	www.hse.gov.uk
Causing harm to protected wildlife	Kent Police	www.kent.police.uk or https://www.gov.uk/government/organisations/natural-england (towards the bottom of the webpage)
Non protected Trees or destruction of Woodland (including Ancient Woodland)	Forestry Commission	https://www.gov.uk/government/organisations/forestry-commission
Health and safety issues e.g. unsafe working on a building site	Health and Safety Executive	www.hse.gov.uk

Dangerous buildings and structures	South Thames Gateway Partnership Building Control team	www.stgbc.org.uk
Internal works to a building	South Thames Gateway Partnership Building Control team	www.stgbc.org.uk