

New Forest National Park Authority

Local Enforcement Plan

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1. Purpose and Scope of the Local Enforcement Plan

The New Forest National Park Authority (“the Authority”) is the local planning authority for the National Park with a responsibility to conserve and enhance the natural beauty, wildlife and cultural heritage of the New Forest through its development management function which includes planning policy, development management and enforcement.

The primary role of planning enforcement is to investigate alleged breaches of planning control and bring about reasonable and proportionate remedial action where appropriate. While most development and changes of use are undertaken with the appropriate permission or consent in place, there are instances where it is not. These instances are referred to as ‘breaches of planning control’ or ‘unauthorised development’. Often, breaches of planning control result from a lack of awareness that planning permission is required, and it is important to note that a breach of planning control, with some exceptions, does not constitute a criminal offence.

Enforcement action is discretionary, and any action taken should be proportionate to the breach of planning control to which it relates. National planning policy and guidance set out that formal action should only be taken when it is expedient and in the public interest to do so and should not be used punitively. Formal action should not be taken purely to regularise development for which planning permission has not been sought but is acceptable in planning terms.

This Local Enforcement Plan explains how the Authority investigates suspected breaches of planning control, how cases are prioritised, what outcomes may follow, and what people who report matters, landowners and other interested parties can expect from the process. It sets out the procedures followed by the enforcement team to bring about reasonable and proportionate remedial action where breaches cause planning harm to the built or natural environment, conflict with the Authority’s adopted policies, National Park purposes or statutory duties, and justify further action. The Authority manages this through:

- Reactive enforcement: investigating reported breaches of planning control
- Proactive enforcement: monitoring new development by ensuring compliance with planning permissions, associated conditions and legal agreements

Planning enforcement is a complex and lengthy process, and this plan serves as a guide for all those affected by breaches of planning control who may wish to better understand the enforcement process and the steps the Authority can take to achieve the most appropriate and effective outcome. It also sets out how interested parties will be kept up to date in relation to the work being carried out by the enforcement team.

The Authority’s priority in all enforcement cases is to remedy any harm caused by the breach of planning control in the most appropriate manner. This Plan should be read alongside the adopted local planning policies for the National Park together with national legislation, policies and guidance. National guidance on planning enforcement can be found at: [Enforcement and post-permission matters - Find business regulations - GOV.UK](#).

The Local Enforcement Plan exists to set out how the planning enforcement service of the New Forest National Park Authority will deal with reports of alleged breaches of planning control. It should be read alongside adopted planning policies and national legislation, policies and guidance. Throughout this Local Enforcement Plan are references to relevant legislation and policies that are relevant when determining if a breach of planning control exists and the options available to the Authority if we believe it is ‘expedient’ to pursue enforcement action.

2. Planning Enforcement in the New Forest National Park

The National Planning Policy Framework ("the NPPF") and Planning Practice Guidance ("PPG") set out the Government's planning policies relevant to the work of all planning authorities. They constitute guidance for planning authorities in drawing up plans and are a material consideration for planning related decisions.

The NPPF states:

'Effective enforcement is important as a means of maintaining 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. Local planning authorities 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 it is appropriate.'

The 'Ensuring Effective Enforcement' guidance from PPG came into effect in March 2014 and is reviewed and updated regularly. It emphasises the importance for local planning authorities to prepare and adopt local enforcement plans because they:

- Allow and encourage engagement in the process of defining objectives and priorities which are tailored to local circumstances.
- Set out the priorities for enforcement action, which will inform decisions about when to take enforcement action.
- Provide greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers.
- Provide greater certainty for all parties involved in the development process.

The PPG puts emphasis on local planning authorities to negotiate compliance and to only take formal action as a last resort, i.e. where efforts to resolve the breaches of planning control informally have failed or an agreement cannot be reached. Formal enforcement action should only be taken where the Authority considers it expedient and in the public interest to take such action, taking into account the level of harm caused by the breach of planning control and all other relevant considerations.

The Enforcement Framework, guided by the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), emphasises the importance of effective enforcement to maintain public confidence in the planning system. These guidelines encourage local authorities to create local enforcement plans that set clear priorities, ensure transparency, and provide certainty in how reported breaches of planning control are responded to and dealt with.

Our enforcement approach

Core Principles

The Authority will take a fair, consistent and proportionate approach to planning enforcement. Each case will be considered on its own facts, having regard to national legislation and guidance, adopted planning policies, National Park purposes, material planning considerations, the degree of planning harm and the public interest.

Where a breach is identified, formal action will not automatically follow. The Authority must decide whether action is expedient. That judgement includes whether the breach causes unacceptable planning harm, whether action would be proportionate to that harm, and whether pursuing the matter would be an appropriate use of public resources.

In all but the most serious cases, the Authority will normally seek to resolve breaches through engagement, negotiation, voluntary remedial works or the submission of a retrospective planning application where appropriate. However, negotiations will not be allowed to delay formal action where the breach is causing serious harm, where there is little prospect of resolution, or where immediate action is justified.

The Authority receives a wide range of reports and has finite resources. Cases will therefore be prioritised according to the seriousness of the alleged breach and the degree of planning harm caused or likely to be caused.

Service Standards

In investigating alleged breaches of planning control reported to the Authority we will:

- i. Always keep personal details confidential (see Section 4)
- ii. Acknowledge reports of alleged breaches in writing providing a reference number and a summary of the alleged breach(es) to be investigated
- iii. Notify town and parish councils when a report of a suspected breach is received in their parish
- iv. Carry out an initial desk-based assessment and / or site visit to establish whether or not a breach of planning control exists
- v. Determine the best approach in dealing with the alleged breach of planning control

We will also carry out a pro-active monitoring function to ensure that significant development within the National Park is carried out in accordance with the conditions, limitations and approved plans of planning permissions and legal agreements.

The Authority will act fairly, consistently and proportionately. Formal enforcement action is discretionary and will only be pursued where it is expedient, justified by planning harm, in the public interest and an appropriate use of resources. Engagement or negotiation will normally be considered first, but serious or unresolved harm may justify formal action.

3. What is, and what is not, a breach of planning control.

What is a breach of planning control?

A breach of planning control is defined under [section 171A of the Town and Country Planning Act 1990](#) (as amended) as:

- 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.

If the matter reported is not 'development', it cannot be a breach of planning control, and the Authority has no powers to take any further action. We will, however, advise if any external agencies may be able to deal with the matter where appropriate.

If the matter reported is 'development', it may be that it already benefits from being '[permitted development](#)' or having '[deemed consent](#)' and as a result express permission will not be required from the Local Planning Authority. It may be that express planning permission, or consent has already been granted.

Where the matter reported is development that does not benefit from permitted development rights, deemed consent or express planning permission and does not appear to be immune from enforcement action, we will investigate the allegations further.

Common examples of breaches of planning control include, but are not limited to:

- Building without planning permission (e.g. extensions, outbuildings, fences, walls),
- Material change of use of buildings and/or land (including deposit of waste material)
- Unauthorised residential use of the land or buildings (e.g. caravans and conversion of buildings)
- Engineering operations, such as the formation of hard surfaces or creation of earth bunds
- Non-compliance with conditions attached to planning permissions
- Not building in accordance with approved plans of planning permissions
- Works to listed buildings without consent
- The demolition of walls and buildings in conservation areas without consent
- Works to trees subject of a Tree Preservation Order ("TPO") or in a conservation area without consent
- Untidy land where it affects the amenity of the area
- Breaches of Section 106 Agreements
- The display of advertisements without consent
- Minerals and Waste Development without consent
- The carrying out of activities or works in contravention of an Article 4 Direction.

This list is not exhaustive. Whether something is a breach will depend on the facts of the matter and relevant legislation.

Most breaches of planning control are not criminal offences. Exceptions include unauthorised works to listed buildings or protected trees, certain advertisements, protected hedgerows, and failure to comply with formal notices.

What is not a breach of planning control?

Matters that are not breaches of planning control include, but are not limited to:

- **Private or civil matters:** land ownership, boundary disputes, trespass, party wall matters, breaches of covenants, loss of property value, loss of a private view, damage to private property, and disputes about private rights or responsibilities.
- **Highways and rights of way:** nuisance, persistent or dangerous parking, parking on the highway or grass verges, obstruction of a highway or public right of way, and overgrown vegetation affecting the public highway.
- **Environmental health, safety or other regulatory matters:** construction noise, dangerous structures, health and safety issues, pollution, waste, drainage or sewerage matters where these fall within the remit of another regulator or statutory undertaker.
- **Permitted development or activities outside planning control:** development that benefits from permitted development rights, use of buildings within the curtilage of a dwelling for incidental domestic purposes, operating a business from home where the dwelling remains the primary use and there is no significant planning impact, agricultural or forestry use of land, temporary structures or fencing associated with building works, and maintenance works by statutory undertakers or their contractors.
- **Non-listed internal works and vegetation clearance:** internal works to a building that is not listed, and clearing land of overgrowth, bushes or trees where the trees are not protected by a Tree Preservation Order, within a conservation area, or otherwise controlled by planning condition or other legislation.

In cases such as these- where the Authority has no jurisdiction - parties are advised to seek advice from the appropriate alternative organisation, a solicitor or Citizens Advice (<https://www.citizensadvice.org.uk/>)

A matter can only be a breach of planning control if it involves development requiring planning permission or a failure to comply with a planning condition or limitation. Some development is already permitted, and private disputes or matters controlled by other organisations fall outside the Authority's powers. Whether a breach exists will depend on the facts and relevant legislation. Most breaches are not criminal offences, although certain unauthorised works and failure to comply with formal notices may be.

4. How to report a suspected breach

We rely upon help from members of the public to bring alleged breaches of planning control to our attention. However, the personal details of a person making a report remain strictly confidential.

Before reporting a suspected breach, please check that the site is within the New Forest National Park and review the Authority's online planning register to see whether the development already has permission or consent. You should also consider whether the issue is a private/civil matter, a highways issue, an environmental health matter, or something better dealt with by another agency.

To review the Authority's planning register, please visit:

[View or comment - New Forest National Park Authority \(newforestnpa.gov.uk\)](https://www.newforestnpa.gov.uk).

If you believe that a breach of planning control exists, you should report the matter to the New Forest National Park Authority's Enforcement Team through the Authority's website:

[Report a planning breach form - New Forest National Park](https://www.newforestnpa.gov.uk/planning-home-page/raise-a-concern/report-a-planning-breach-form/). <https://www.newforestnpa.gov.uk/planning-home-page/raise-a-concern/report-a-planning-breach-form/> This ensures that the relevant information required to assess the allegation is collected, enabling reports to be correctly prioritised to allow the Authority to respond in an efficient and timely manner.

Information required

To fully investigate an alleged breach of planning control, we need as much information as possible up-front. This includes the following:

- Full postal address, grid reference, what3words or map identifying the location of the alleged breach
- Your contact details including e-mail and contact telephone number as we may need to seek further information or clarification regarding the allegation
- Any planning reference numbers, such as the application number or planning condition relevant to your report
- As much information as possible about the alleged breach: be precise and explain what the issue is and the planning harm caused by it. Where the report relates to recurring activity, the Authority may ask the person reporting the matter to provide a written log of the dates, times, duration and nature of the activities involved over a period of time, together with any supporting evidence. If that information and evidence are not provided, the Authority may be unable to pursue the investigation further.
- Photographs or other evidence (for example screenshots or photographs of adverts and social media posts).

If the information initially provided is not sufficient to suggest that a breach of planning control exists, or to enable the Authority to investigate effectively, we may ask the person who made the report for further information before deciding whether to progress the matter.

We will exercise discretion in investigating reports of suspected breaches of planning control received by email, telephone or other methods, depending on the available resources, information provided and nature of the suspected breach.

We will not normally investigate reports of suspected breaches of planning control that:

- are considered to be malicious or vexatious in nature;
- have already been reported to the Authority and closed within the last 18 months unless there is evidence of a significant change in circumstances;
- are anonymous reports, unless they relate to serious, irreversible or public safety/harm.

Town or parish councils can report an alleged breach of planning control on behalf of a person who wishes to remain anonymous by completing the online form.

The approach outlined in this Plan ensures that public resources are not spent unnecessarily investigating unfounded or malicious reports.

How will I be kept updated on the investigation?

The person submitting an enforcement report will be kept informed of progress at various stages of the investigation. There is no set time frame for updates to be provided as the progress of each case will vary, but we will aim to update interested parties at the following stages of an investigation:

- Following receipt of a report of a suspected breach of planning control
- Once the most appropriate course of action has been determined
- If a planning application is received
- If an appeal is lodged
- If formal enforcement action is taken
- If an enforcement appeal is lodged
- When an enforcement investigation is closed, together with a summary of the findings

If the Authority receives a request for an update on the status of an enforcement investigation, we will only provide information as to what stage the investigation has reached. We regret that we cannot provide regular ongoing updates on what is happening in individual cases during the course of an investigation.

Updates, confidentiality and access to information

Updates

We will update the person who reported the matter at key stages, including registration, following our initial assessment, the submission of any related planning application or appeal, any formal action taken, and case closure. We cannot provide regular updates, a running commentary or detailed information while an investigation is ongoing.

Confidentiality

Reports of alleged breaches of planning control are handled in confidence. We will not routinely disclose the identity of people who make reports, or information likely to identify them. There may be limited circumstances where disclosure is required by law, by a court, during an appeal, or where evidence is relied on in formal proceedings.

Data sharing

During an investigation, we may share relevant information with other Authority teams, town or parish councils, external agencies, courts, auditors or regulators where this is necessary and lawful.

If formal action is taken, interested parties will be notified and the relevant notice will be published on the enforcement register. Retrospective planning applications and enforcement appeals are public processes, and comments received will be published in accordance with the Authority's normal procedures.

Access to case information

Enforcement records may be requested under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. Requests will be considered on a case-by-case basis. However, the public interest will not usually favour disclosure of detailed correspondence or case information while a matter is ongoing, under investigation, or being monitored for compliance.

Personal data

Personal data used in enforcement work is processed under UK GDPR Article 6(1)(e), because it is necessary for a task carried out in the public interest or in the exercise of official authority. Personal data will be handled in accordance with UK GDPR and the Data Protection Act 2018. More information is available in the Authority's privacy information:

[Privacy and cookies - New Forest National Park Authority.](#)

Before reporting, check that the site is in the National Park and that the development does not already have permission or consent on the online planning register: [View or comment - New Forest National Park Authority.](#)

Report suspected breaches through the Authority's website: [Enforcement: report a breach - New Forest National Park Authority.](#)

During an investigation, updates will normally be limited to the stage reached. Once the investigation is complete, we will provide interested parties with a summary of the outcome.

We will not routinely disclose the identity of people who make reports or provide a running commentary while an investigation is ongoing.

5. How we assess and investigate reports

Enforcement investigations do not usually stop development or activity immediately. The Authority must first establish the facts, decide whether there is a breach of planning control, assess any planning harm, and consider whether formal action would be proportionate and in the public interest.

Priority	Initial response target	Examples
Urgent: potentially irreversible harm	Initial assessment or site visit within 2 working days	Unauthorised works to listed buildings Felling or damage to protected trees Serious harm to protected habitats or heritage assets Serious public safety risk Harmful works nearing immunity
High priority: significant planning harm	Initial assessment or site visit within 5 working days	Works actively taking place to a listed building, works to a protected tree/s, ecological or construction management conditions Works or uses which have the potential to cause significant and unacceptable impacts to the amenity of the area or highway safety
Standard priority	Initial assessment or site visit within 15 working days where required	Breaches of planning conditions not covered by urgent or high priority categories Unauthorised operational development or changes of use Works not in accordance with approved plans Unauthorised gates, walls, fences or hard surfaces
Low priority: breaches which do not result in significant and/or irreversible harm	Recorded, redirected or closed unless further evidence is provided Initial assessment / site visit when workloads and resources allow.	Untidy sites The display of advertisements Minor development likely to be permitted development. Anonymous reports of minor matters; private/civil disputes; matters already investigated and closed; reports with insufficient evidence of planning harm

Initial assessment

When a completed report is received, an enforcement officer will review the information provided and carry out an initial assessment.

If the matter is not a planning issue, or the information provided does not suggest that a breach of planning control may have occurred, we will not investigate further. We will notify the person who reported the matter and, where appropriate, signpost them to another organisation.

In deciding how to prioritise and respond to reports, the Authority will have particular regard to the purposes and special qualities of the New Forest National Park, including its landscape character, biodiversity, cultural heritage, protected trees and habitats, listed buildings, conservation areas, public amenity and the enjoyment of the National Park by the public.

Further investigation

Where there is enough information to indicate a possible breach, the Authority will investigate further and prioritise the case using the table below.

The Authority receives a wide range of enforcement reports each year. Cases are prioritised according to the seriousness of the allegation and the degree of planning harm caused or likely to be caused. Where resources are under significant pressure, lower-harm matters may be given a lower priority or reviewed earlier to decide whether further action remains expedient.

Next steps

Following the initial assessment, the enforcement officer may close the case if no breach is found, carry out further enquiries, invite remedial action or a retrospective application, or recommend formal action where appropriate.

The investigation may include reviewing the planning history, checking ownership, undertaking site visits, corresponding with owners or occupiers, liaising with other agencies, gathering relevant information and evidence, or serving formal information notices where necessary.

The timescales in the table are targets and may vary depending on resources, access, the information and evidence required, and the circumstances of the case. Any unauthorised works or activity carried out during an investigation remain at the owner's or operator's own risk.

We prioritise cases according to the degree of harm being caused, with highest priority given to cases where the harm (or the potential for harm) is highest.

During the course of the investigation, we will establish the facts and gather relevant information and evidence to determine and pursue the most appropriate course of action where a breach of planning control is identified.

Timescales are targets and may vary depending on resources, access, the information and evidence required, and the circumstances of the case. Enforcement investigations do not immediately halt development or activity on the site and can take time to establish whether a breach of planning control exists. Any works carried out during an investigation are undertaken entirely at the owner's risk.

6. The possible outcomes of an investigation

The following provides a summary of what can be expected from an enforcement investigation. If a breach of planning control is identified, the Authority will determine the most appropriate way to resolve the matter based on the circumstances of the case.

No breach

The investigation may not find any evidence of a breach of planning control. This can be for several reasons such as:

- no evidence is found that the matters alleged have occurred
- the works do not constitute 'development' and therefore are not within the Authority's control
- development has taken place, but a planning application is not required as the development is 'Permitted Development'. This means planning permission is deemed to be granted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and is therefore not within the Authority's control.
- the development already has planning permission and is being carried out in accordance with the terms and limitation of the permission

Immune from enforcement action

Where an investigation reveals that a planning breach has occurred it may be found that the breach has existed for so long that it is now immune from enforcement action. These time limits are set out under Section 171B of the Town and Country Planning Act 1990 (as amended). In such cases, no further action can be taken.

Retrospective application

In all but the most serious of breaches of planning control we will provide an opportunity, without prejudice, for a retrospective planning application to be submitted where:

- the development does not appear contrary to the Authority's policies and there is a reasonable likelihood that permission may be granted; or
- where development may be made acceptable by alterations to the scheme or by imposing suitable conditions to control the development.

The submission or opportunity to submit a 'retrospective' application does not guarantee approval. The Authority must consider retrospective applications in the same way as any other application. A reasonable period will normally be allowed for the preparation of supporting plans and documentation to accompany an application. The application will be subject to the relevant process and assessed against national and local planning policies as appropriate. The views of residents and members of the public are taken into account. The details of the enforcement investigation are not included in the planning application.

Unless it is considered expedient to take formal action before any retrospective application is determined, the enforcement investigation will be kept open but held in abeyance until a decision is made.

For details on how the Authority deals with planning applications see: [The application process - New Forest National Park Authority](#)

Where planning permission is granted for a revised development (i.e. because an alternative proposal has been negotiated) a condition will be added where appropriate. This is to ensure positive steps are taken by the person responsible to carry out remedial works in a timely manner to remedy the breach of planning control.

Negotiation / Working towards a satisfactory outcome

In some cases, it may be considered that the submission of a planning application is not the most appropriate way of resolving the matter. However, as planning guidance advises, where possible and appropriate, the Authority will advise on what it considers to be an alternative solution in an attempt to remedy the harm caused before considering taking formal action.

In these cases, it will be necessary to consider the specific circumstances of the breach and the degree of planning harm caused. If a breach is identified and it is determined that remedial steps are necessary, the Authority will set out the steps that are required to the owner and provide a reasonable timeframe in which to carry out those steps.

Even in cases in which the Authority deems that an application is not the most appropriate way forward, it remains open for the person responsible to submit a planning application which will be considered and the most appropriate course of action determined accordingly. Where progress is limited, the Authority may review whether further action remains expedient.

Case review and expediency

Identifying a breach of planning control does not automatically justify formal action. The Authority must consider whether the breach causes unacceptable planning harm and whether further action would be expedient, proportionate and in the public interest. This assessment will have regard to local and national planning policy, relevant [material planning considerations](#), the evidence available and the circumstances of the case.

The Authority may review the case at any stage, particularly where it has not been resolved within a reasonable timeframe or circumstances have changed. It may close the case without formal action where the breach is minor or technical, immune from enforcement action, acceptable in planning terms, causes no material planning harm, or where further action would not be proportionate or in the public interest. The breach will be recorded, the person responsible may be advised that they can submit an application to regularise the development, and interested parties will be updated accordingly.

If the review concludes that formal action is expedient and in the public interest, the Authority will prepare the necessary report and notice documents and seek the required authorisation before action is taken.

The outcome of an enforcement investigation will depend on the facts, the evidence available, the degree of planning harm and whether further action is expedient, proportionate and in the public interest. Where no breach is found, where a breach is immune from action, or where formal action is not justified, the case may be closed. Where action is justified, the Authority will normally seek to resolve the matter through a retrospective application, negotiated remedial works or, where necessary, formal enforcement action.

7. If a report is made about your land or property

We recognise that it can be unsettling to find out that an allegation of a breach of planning control has been made against your property.

If a report is made about your land or property, you can expect to be treated fairly, given an opportunity to respond to the allegation and, where appropriate, given an opportunity to resolve any breach identified as set out in this plan. Prompt engagement with the Authority will help establish the facts and identify the most appropriate way forward.

If you have received a letter or a visit from an enforcement officer explaining that a report has been received in relation to your property, we encourage you to respond in a timely manner and to provide any required information so that the matter can be resolved efficiently to the benefit of all parties. You should be aware that the Authority cannot reveal the details or identity of the source of the report to you.

Planning legislation gives the Authority a range of tools to carry out a thorough investigation. We will continue to progress the matter even if a response is not received; however, your cooperation is encouraged to ensure that any assessment is based on the full facts.

It is often the case that breaches of planning control are not intentional and may arise from the person responsible being unaware that planning permission would be required. In most cases where a breach is identified, it may be resolved by submitting an appropriate application. In some cases, resolving a breach may simply involve making minor adjustments. The enforcement officer dealing with your case will advise you accordingly.

Should you choose not to actively engage with the Authority from the outset to address the matter, the Authority may proceed with taking formal enforcement action without further opportunity to resolve the situation informally.

Advice

We would strongly recommend that you seek independent planning advice if the Authority notifies you that a report has been made about your property. Enforcement officers will advise accordingly but cannot assist with completing or submitting applications.

Officers will always give clear advice, intended to be helpful, on what is needed to remedy a breach of control, and the various options available. We can offer advice on site, over the phone and via email. However, advice will be limited and will usually cover

- Whether the submission of a retrospective planning application may be appropriate;
- or
- What remedial steps may be required to remedy the breach of planning control or, if appropriate and proportionate, remedy the harm

Where an opportunity to submit an application is provided, a discretionary period for the submission of a valid application will be imposed. The length of this period will vary according to the nature of the breach and the requirements of the application, such as the need for complex plans or technical reports to be prepared.

If an application is not received within the agreed timeframe, without plausible reason for any delay, the Authority will proceed with determining the most appropriate course of action in the circumstances. In the event a formal notice is issued, you will be advised about any right of appeal.

Rights of Entry Powers - Section 196

Under Section 196 of the Town and Country Planning Act 1990, the Authority has powers to, or engage authorised representatives to, enter land without prior notice to investigate an alleged or suspected breach of planning control. Where a dwelling house is involved, at least 24 hours' notice will be provided if necessary. We will seek the cooperation of the owner or occupier through discussion or, if necessary, by serving a Notice of Intended Entry. Please note that preventing access is an offence, and the Authority may take legal action in cases of deliberate obstruction.

Consequences of unauthorised development

Unauthorised development may affect future sales, re-mortgages or property searches, even where no formal action is taken. Formal enforcement action is usually recorded on the Local Land Charges Register. Owners should therefore ensure the necessary permissions and consents are in place and resolve any enforcement matters promptly.

Engaging positively and proactively with the planning enforcement team can help resolve enforcement matters more efficiently. It is therefore in your best interest to respond to any communication from the enforcement team promptly, so that the facts can be established quickly, remedial steps can be taken, and formal action can be avoided wherever possible.

8. Enforcement Powers

Generally, only a small percentage of reports received result in formal action being taken. If formal action is deemed necessary, there are a range of powers available to the Authority to require that steps are taken to remedy breaches of planning control. Formal enforcement action will commonly involve the issuing of an enforcement notice. In some cases, a breach of condition notice or other formal notice may be more appropriate.

More robust enforcement action, such as the use of stop notices or an injunction, will be used less frequently and reserved for the most serious, flagrant and harmful breaches of planning control. However, the Authority will be prepared to use the most appropriate and effective power(s) necessary to deal with an identified breach.

Set out below is a brief description of the various enforcement powers available to the Authority. This is not intended to set out in full all the detailed legal considerations, but simply to try to explain the general nature of tools available. Further information on the various Notices can be found at: [Enforcement and post-permission matters - GOV.UK](#).

Power	Purpose	Typical use	Appeal or offence position
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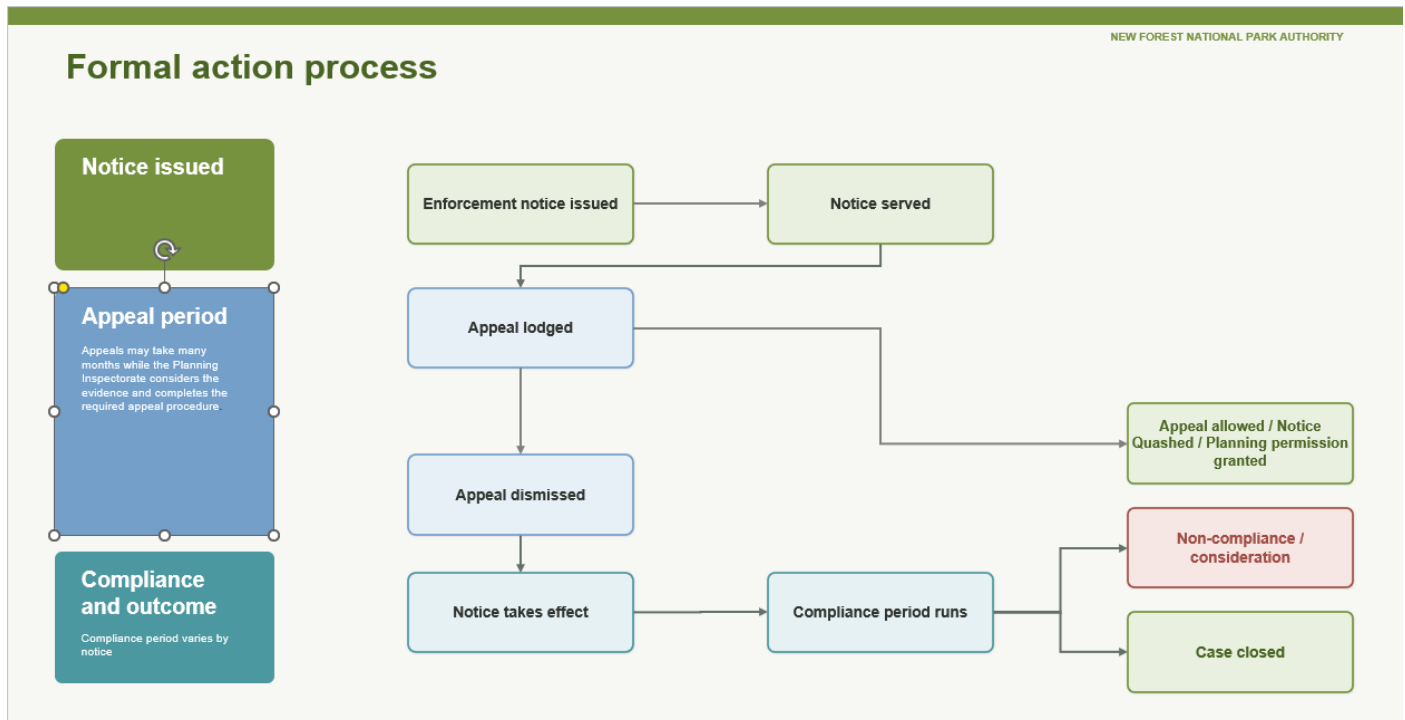
Planning Contravention Notice	Requires information about land, activities and ownership.	Used to establish whether a breach exists and who is responsible.	Failure to respond, or providing false or misleading information, may be an offence.
Enforcement Notice	Requires steps to remedy a breach of planning control.	Used where unauthorised development causes planning harm and formal action is expedient.	There is a right of appeal before the notice takes effect. Failure to comply once effective is an offence.
Breach of Condition Notice	Requires compliance with planning conditions.	Used where a condition attached to a planning permission has not been complied with.	There is no right of appeal. Failure to comply is an offence.
Stop Notice / Temporary Stop Notice	Requires specified unauthorised activity to stop.	Used in serious cases where continuing activity is causing, or risks causing, significant harm.	Failure to comply is an offence. Compensation may be payable in some circumstances.
Listed Building Enforcement Notice	Requires steps to remedy unauthorised works to a listed building.	Used where works have been carried out without listed building consent or contrary to consent.	There is a right of appeal. Unauthorised works to a listed building may also be a criminal offence.
Enforcement Warning Notice	Formally invites a retrospective planning application.	Used where unauthorised development may be acceptable if considered through an application.	It is not itself formal enforcement action and does not carry a right of appeal.
Section 215 Notice	Requires proper maintenance of land or buildings.	Used where the condition of land or buildings adversely affects amenity.	There is a right of appeal to the Magistrates' Court. Failure to comply may be an offence.
Section 330 Notice	Requires information about interests in land.	Used to identify owners, occupiers or others with an interest in the land.	Failure to respond may be an offence.
Section 225 Notice	Enables removal of unauthorised advertisements.	Used where advertisements are displayed without consent and action is justified.	Unauthorised advertisements may be a criminal offence.

Tree Replacement Notice	Requires replacement planting after unlawful tree works.	Used where protected trees have been removed without consent.	Unauthorised works to protected trees may be a criminal offence.
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When will we use these tools? Planning controls regulate the development and use of land and buildings where necessary. They are not intended to protect the private interests of one person against the activities of another.

Planning enforcement action will not be taken punitively solely to regularise breaches of planning control. In taking formal planning enforcement action, the Authority will use whichever available enforcement power (or combination of powers) it considers to be most appropriate to effectively deal with an identified breach of planning control.

9. What happens after a Notice is issued? Appeals, compliance and failure to comply



An enforcement notice cannot come into effect (the effective date) until at least 28 days after it is served on the relevant person(s). Within that period, the notice may be contested by way of an appeal to the Planning Inspectorate or be challenged by judicial review. However, not all notices can be appealed. Where an appeal is made, the requirements of the notice are normally suspended until the appeal is decided.

An appeal may be made on one or more of the following grounds:

- That planning permission should be granted for what is alleged in the Notice;
- That the breach of planning control alleged in the Notice has not occurred as a matter of fact;
- That there has not been a breach of planning control;
- That, at the time the Notice was issued, it was too late to take action against the alleged breach;
- The Notice was not properly served on everyone with an interest in the land;
- The steps required to comply with the Notice are excessive and lesser steps would be appropriate;
- That the time given to comply with the Notice is too short.

The Planning Inspectorate's decision will take time and can often delay proceedings. Further information on planning enforcement appeals can be found on the Planning Inspectorate's website at: <https://www.gov.uk/appeal-enforcement-notice>.

In defending planning enforcement action on appeal and in the courts, we must show that:

- the relevant procedures have been followed, and

- that national and local policy, along with guidance, in relation to planning and enforcement has been considered.

An Inspectorate can:

- dismiss the appeal and uphold the Notice,
- vary a Notice (providing it is only a minor change) or
- allow the appeal and quash the Notice.

In the event that an appeal is dismissed and the Notice is upheld (varied or unvaried), the date of the Inspectorate's decision letter becomes the effective date of the Notice and the period for compliance begins. If no appeal is lodged, then the Notice takes effect on the effective date.

The steps required to remedy the breach should be carried out within the compliance period set out in the notice.

Failure to comply with an enforcement notice

Failure to comply with an enforcement notice is a criminal offence. If the Notice is not complied with to the satisfaction of the Authority within the compliance period, the Authority may decide to prosecute the person(s) responsible.

The expediency and appropriateness of prosecution is assessed by the Authority based upon the evidence available and can only be taken where both the evidential and public interest tests are met. The penalty for failure to comply with an enforcement notice is a fine up to £20,000 on summary conviction or an unlimited fine on indictment.

If an enforcement notice is successfully appealed or challenged, it has the effect of having been granted planning permission or being deemed lawful and the Notice is quashed.

If the Notice is upheld or there is no appeal, then the Notice takes effect and should be complied with within the compliance period provided.

Court and direct action

Where a formal notice has not been complied with, the Authority may consider further action. This may include prosecution, an injunction, or direct action to secure compliance. The option used will depend on the seriousness of the breach, the harm being caused, the evidence available and whether the action is in the public interest.

Prosecution may be considered where an offence – which includes failure to comply with a formal notice - has been committed, unauthorised works to listed buildings or protected trees have been carried out, unauthorised advertisements have been erected or where demolition has occurred in a conservation area.

An injunction may be considered in serious or urgent cases, particularly where harm is ongoing, likely to worsen, or other action has not secured compliance. Direct action may be considered where works are needed to remedy non-compliance. The Authority will seek to recover its costs where appropriate.

10. Why can enforcement action take so long?

There is often a misconception that enforcement investigations (and any subsequent actions taken) will immediately halt development. In reality, the enforcement process can and often does take time to progress.

We acknowledge that it can be frustrating when reported activity continues for some time after initial contact with the Authority. However, many factors influence the time enforcement action takes, including:

Establishing the facts and whether a breach of planning control has occurred

Before deciding on the most appropriate course of action, we must first determine whether there has been a breach. It is not always immediately apparent whether works or activities constitute a breach, so it is important for the Authority to carry out a thorough initial assessment of the report. The Authority will review the planning history and gather relevant information and evidence using the resources available. This will enable us to establish the facts, determine the most appropriate course of action and, where necessary, prepare the legal documents required for formal action.

Providing an opportunity to take remedial steps to resolve a breach

In all but the most serious of cases, the Authority will seek to resolve the breach through informal discussions with the person responsible. Examples of these discussions include:

The opportunity to submit a retrospective application seeking to resolve the breach

A retrospective application must be dealt with in accordance with the normal planning application process and is subject to the notifications, consultations and statutory time limits associated with such.

Determining an application usually takes a minimum of eight weeks. When planning permission has been granted for a revised development (i.e. because an alternative has been negotiated in order to remedy the breach of any harm caused), remedial steps will be a condition of that permission where appropriate, requiring the landowner/applicant to implement the permission within a reasonable timeframe.

Positive active remedial steps to remedy the breach and / or the harm caused by the breach.

Where the Authority is of the view that the breach would be unlikely to be supported if an application were to be submitted, or where an application has been refused, it may be appropriate to provide an opportunity for the person responsible to carry out remedial steps to remedy the situation. Any timeframes would be set according to the specific remedial steps required.

The appeal process

If an application to regularise a planning breach is refused, the applicant has the right to appeal the planning decision. The Authority will always consider the facts of the case before determining if it is appropriate to await the outcome of the appeal before taking any formal enforcement action. In cases where an appeal has been lodged, it can take a number of months for the Planning Inspectorate to determine the appeal.

Preparing to take formal action: involves the preparation of the relevant legal documents to take formal action which involves getting Authorisation from the relevant persons according to our scheme of delegation and ensuring that any formal Notice meets the test in order to be valid and enforceable.

It is not always possible to anticipate how a particular case will develop, and the timescale for resolving a breach can be difficult to predict. Factors that affect the length of an enforcement investigation include establishing whether there is a breach of planning control, gathering the relevant information and sufficiently robust evidence, allowing the person responsible time to take remedial steps, which may include preparing and submitting an appropriate application, and, where an appeal is made, the time required for it to be considered and determined.

11. Monitoring and Proactive Enforcement

Minerals and Waste Sites

The New Forest National Park Authority is the statutory minerals and waste planning authority for the National Park. Unauthorised mineral and waste developments sometimes pose particular enforcement problems given the irreversible nature of the working and the speed at which damage can be caused.

Monitoring minerals and waste sites is an essential tool for preventing potential problems at these sites from escalating. It is this proactive approach that enables us to avoid significant and harmful breaches of planning control before they occur.

On 6 April 2006, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006 came into force. This amendment enables local authorities to charge operators, where sites have planning permissions for mineral extraction and/or waste landfill, for the reimbursement of the average costs of providing the monitoring service. We therefore charge for our monitoring service in accordance with these regulations.

12. Complaints about our service

The complaints process concerns the way in which our service has been provided. It is not a route to challenge professional planning judgement nor to overturn an enforcement decision.

Complaints relating to the service will be acknowledged within three working days. The complaint will be investigated, and the complainant will receive a written response within twenty working days. Details of how to make a complaint are available on the Authority's website at: [Comments and complaints - New Forest National Park](#)

If a complainant remains dissatisfied with the written response, then details will be supplied for pursuing the complaint further through our Complaints Officer in accordance with the Authority's formal corporate complaints procedure. We will always strive to resolve a complaint internally but if this is not possible, the complainant will be advised on how to pursue the matter further with the Commissioner for Local Administration (the Ombudsman).

If you are unhappy with how an enforcement case has been investigated, it is open to you to make a formal complaint by completing the online form [here](#), where details of the complaints procedure can also be found. Please note that the complaints procedure does not allow for the review of professional judgement exercised in deciding the outcome of an investigation.

13. Unreasonable behaviour

The Authority welcomes contact from people reporting suspected breaches of planning control or seeking advice on how best to resolve identified breaches. We will deal with reports and requests fairly and impartially and aim to respond, where appropriate, within a reasonable timeframe.

We understand that people sometimes feel frustrated that, despite reporting a breach of planning control, the breach appears to continue despite there being an ongoing enforcement investigation. However, we will not tolerate unreasonable behaviour towards our officers.

Examples of unreasonable behaviour include:

- abuse or threats to staff or other people;
- pursuing matters in a way that is unreasonably persistent or disproportionate;
- unfounded accusations against officers;
- multiple requests that are very similar or are unreasonably persistent;
- adopting a 'scattergun' approach; that is, pursuing parallel disputes and/or reports on the same issue with a variety of officers, departments or services; and
- making unnecessarily excessive demands on the time and resources of employees whilst a dispute and/or report is being investigated.

Making excessive demands includes:

- making excessive telephone contact or sending emails to numerous Authority employees
- writing a series of lengthy and or complex correspondence.

Where behaviour becomes unreasonable, the Authority may take proportionate steps to manage or limit contact so officers can continue to deal with their caseload effectively.

The Authority will not tolerate unreasonable behaviour towards its employees. Where behaviour is abusive, threatening, unreasonably persistent or disproportionate, the Authority may take appropriate and proportionate action to manage contact. This helps officers focus on investigating and resolving breaches of planning control effectively.

Appendix 1 – Commonly used terms

When you report an alleged breach of planning control to us, we may use phrases including, but not limited to, ‘initial investigation’, ‘expedient’, ‘harm’, ‘discretionary’ and ‘material considerations’. These, amongst others, are explained below:

Term	Description
BCN	Breach of Condition Notice
Compliance date	The date when the compliance period comes to an end
Concealment	Deliberate concealment involves taking steps to hide unauthorised development or a breach of planning control, so that it is not apparent to the Authority. It is more than simply failing to apply for permission or failing to volunteer information.
Curtilage	An area of land around a house used in close association with that house, and generally but not always forming one enclosure with it.
Discretionary	There is no legal requirement for a Local Planning Authority to take enforcement action against alleged breaches of planning control. Enforcement action requires planning judgement as to whether formal action is appropriate. In some cases, the Authority may decide that formal action is not expedient, and an alternative approach is more appropriate.
EN	Enforcement Notice
Effective date	The date when the Enforcement Notice comes into effect and the compliance period begins, ending on the compliance date.
Expedient	The term expedient (or expediency) relates to the ‘planning balance’ for instigating formal enforcement action. When assessing if formal action should be taken, we will ensure that the action is appropriate, reasonable, proportionate and is in the public interest, so to achieve a meaningful outcome.
GPDO	The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is national legislation that grants planning permission for certain types of development, subject to specified limits and conditions, meaning a separate planning application is not always required.
Initial Investigation	The enquiries carried out to establish whether a breach of planning control is likely to have occurred and, if so, the most appropriate way to deal with it and / or what further investigation is required.
Injunction	A court order requiring a person to stop, not carry out, or take specific steps to remedy unauthorised works or activity. Injunctions are

	generally used in serious or urgent cases where court-backed action is needed to prevent or address serious planning harm.
LPA	Local Planning Authority
Material planning considerations	A material planning consideration is a relevant planning matter linked to the development, its scale, nature or impact. It does not include matters governed by private rights or other regulatory regimes, such as property value or loss of a private view. See the Authority's website: Material planning considerations - New Forest National Park Authority.
NFNPA	New Forest National Park Authority ("the Authority")
NPPF	National Planning Policy Framework
PCN	Planning Contravention Notice
Planning Harm	Planning harm is the harm caused, or likely to be caused, by a breach of planning control when assessed against planning policies and material planning considerations. It may include harm to landscape character, biodiversity, heritage assets, protected trees, residential amenity, highway safety, public safety, flood risk, design quality or the character and appearance of an area. It does not include private matters such as loss of property value, loss of a private view, competition between businesses, ownership disputes, trespass or breaches of private covenants.
Planning Inspectorate	The government body responsible for the processing of planning and enforcement appeals.
PD	Permitted development means development that already has planning permission under national legislation, provided it meets specified limits and conditions. Where development is permitted development, a separate planning application is not usually required.
PPG	Planning Practice Guide (sometimes referred to as the NPPG) https://www.gov.uk/guidance/ensuring-effective-enforcement
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
TSN	Temporary Stop Notice
Sui generis	Of its own kind
U/a	Unauthorised

Appendix 2 – Enforcement Process Flow Diagram

