

# Planning Enforcement Policy

## Document Control Sheet

Version	Date	Amendments
1	Undated	First version uploaded to web
2	27.09.2024	Fully adopted version

### Introduction and overview

Torbay Council's Planning Enforcement Policy sets out our procedures for dealing with alleged breaches of planning control. It explains how the council best uses its planning enforcement resources. This includes dealing with breaches of planning control that may cause harm to:

- The local built environment,
- The natural environment or,
- The amenities of neighbours.

Planning enforcement action is discretionary. Government guidance says Local Planning Authorities (LPAs) must only take planning enforcement action when they consider it expedient to do so. Action must be proportionate to the breach of planning control to which it relates.

When it is technically possible to take enforcement action the council is required to decide whether such formal action would be 'expedient'. This means that formal action is discretionary, and all the relevant planning circumstances must first be considered. In considering 'expediency' the decisive issue is whether the breach would unacceptably harm public amenity. Any enforcement action should be proportionate to the breach. This duty means that we would not be acting correctly if we enforced against every breach of planning control in Torbay. There will be cases where there is a breach of planning legislation, but the breach or harm is so minor that action cannot be justified i.e. it is not expedient to pursue the case.

This Planning Enforcement Policy sets out how the council can and will respond to breaches of planning control. We will follow Government advice and try to resolve issues by negotiation. This is often the quickest and most effective way to resolve problems. It is also the most efficient way to use resources as taking formal action can be a lengthy and costly process. However, where negotiation fails and there is a development that results in planning harm, the council will consider taking formal action. Where there is a breach of planning control causing significant and irreversible planning harm, the council may take enforcement action without any negotiation.

The Planning Enforcement Team will focus on the desired outcome when finding the best way forward. We will consider whether planning enforcement is the most effective route to achieve the outcome. Different legislation may be more appropriate, and the Planning Enforcement Team is part of a wider multi-disciplinary response.

This policy sets out the council's specific approach to dealing with planning enforcement matters. It includes our approach to working with other council teams or external agencies where necessary.

## **What is planning enforcement**

Planning enforcement is a process to manage inappropriate development that causes planning harm. Local Planning Authorities (LPAs) have the power to manage and control development. This is set out in the Town and Country Planning Act 1990, as amended (“the Act”).

Section 55 of the Act defines development as:

“the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any buildings or other land”.

If the operation or use is not ‘development’ as defined, it is not a breach of planning control. This means the LPA has no power to take any further action. The Act also defines a breach of planning control as:

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

The National Planning Policy Framework (NPPF) is a material consideration in planning terms and supports the Act. The NPPF guides LPAs on how they should manage breaches of planning control and when to take enforcement action.

Paragraph 59 of the NPPF states 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 act where appropriate.”

The two main areas of legislation which cover development are planning legislation and Building Regulations. The main differences are:

- Planning deals with the development in principle. Is the development acceptable in terms of the visual impact, the amenity, amongst others. How does it fit in with neighbouring development, and the character of surrounding development?
- Building Regulations deal with the construction. Through a variety of legislation, the service administers and enforces a framework of national technical standards covering the design, construction, extension, adaptation, and use of all types of buildings. Customers should send concerns about building regulations issues to the council’s Building Control Team.

## **The key objectives of the enforcement process**

- To ensure the aims and objectives of the Local Plan are followed and implemented.
- Investigate, resolve and track unauthorised development. Especially with regard to the delivery of new homes, conservation areas, listed buildings and protected trees.
- Track compliance with planning permissions, conditions and planning agreements.
- Investigate and respond to complaints in an efficient and timely manner.
- Maintain public confidence in the planning system.

## **What is or is not a breach of planning control?**

Potential breaches of planning control could include (please note this is not an exhaustive list):

- Works to listed buildings.
- Demolition of buildings in a conservation area.
- Works to trees subject of a Tree Preservation Order (“TPO”) or in a conservation area.
- Building without consent (i.e. extensions, outbuildings, fences, walls).

- Change of use of buildings and/or land (including sub-division of houses to flats / HMOs).
- Advertisements and signage.
- Non-compliance with conditions attached to planning permissions.
- Not building in accordance with the approved plans of planning permissions.
- Untidy land where it affects the amenity of the area.
- Engineering operations, such as the raising of ground levels.
- Deliberate concealment of unauthorised building works or changes of use.
- Unauthorised residential use of the land (i.e. caravans).
- Breaches of planning conditions, Section 106 Agreements and Community Infrastructure Levy.
- Minerals and Waste Development.

Matters which we would not normally investigate as they are not usually breaches of planning control include (please note some issues may be subject to non-planning legislation or civil matters. This is also not an exhaustive list):

- Internal works to a non-listed building provided they are not in breach of conditions.
- Use of buildings in the curtilage of a dwelling for incidental domestic use.
- High hedgerows.
- Parking of commercial vehicles on the highway or grass verges unless displaying an advertisement.
- Land ownership disputes or trespass issues.
- Infringements of covenants in property deeds.
- Temporary structures/fencing associated with building works.
- Dangerous structures or other health and safety issues.
- Devaluing of property.
- Issues relating to party walls.
- Issues relating to damage of property or (potential) injury to persons.
- Use of land for forestry or agriculture.
- Carrying out maintenance to pipes, sewers etc by a council or statutory undertaker. This could be South West Water, or a contractor employed by them.
- Highway maintenance undertaken by the council.

Customers often refer to 'illegal development' when reporting what they believe to be a breach of planning control. Unauthorised development is not a criminal offence.

There are exceptions which include:

- Unauthorised works to Listed Buildings and protected trees without consent.
- Relevant demolition.
- Advertisements displayed without consent.
- Non-compliance with formal notices.

The Act enables people who have carried out development to apply for planning permission retrospectively to regularise matters.

The LPA must consider these applications the same way as any other. We cannot consider the fact a development has already happened. That cannot prejudice the determination of an application.

The council can investigate and act if someone is developing, altering or changing the use of land or buildings without permission. Some types of development, alterations, or changes of use do not need permission. Some changes of use are 'permitted development' or subject to a consent regime known as 'prior approval'. The government has defined some changes of use as not constituting development, for example changes within Class E employment use which includes

shops and a range of other commercial uses. If permission is needed, but is not granted before the change of use takes place, this is a breach of planning control.

The council can decide how they will investigate a breach of planning control. We will normally only investigate works to residential properties if you can show that the work causes a high degree of harm. Harm could be to the environment, community or living conditions (amenity). This helps us to focus resources on serious breaches where our intervention is necessary.

The Planning Enforcement Team will normally not investigate complaints on council owned land or within Highway land. If you need to tell us about a problem with a highway, you can find more information and make a report on our [highways](#) page.

We cannot act when a planning breach is anticipated. We can only act when an alleged breach is happening or has happened. Equally the council is normally unable to act if a breach has ceased and is no longer occurring.

Our Planning Enforcement Policy gives more detailed information about our approach to planning enforcement.

Please read this page carefully before you make a report.

### **What is not a breach of planning control**

Some types of development or alterations do not need planning permission. If permission is not required, it is called a permitted development. You can get guidance on the types of changes that do not need permission on the [Planning Portal](#).

You may not be aware that planning permission has been granted. Before you report a breach, please check our online [planning register](#). Checking before you make a report will help the council to make the best use of its enforcement resources. You can search using the address of the land or property if you know it.

You can also use the map to search for planning permissions. Choose the “Map” search option and zoom in on the area of the property. Once you can see the outlines of individual properties, any land that has permission has a red line around it. You can click anywhere inside the red line to view further information and click through to find the details of the permission.

We cannot investigate civil matters. You should seek independent legal advice or contact the Citizens Advice Bureau for help. These include:

- Disputes between neighbours, for example, over a high hedge.
- Boundary or land ownership disputes.
- Works being carried out to party walls.
- Covenant disputes. A covenant is a restriction added to a deed or on the title to the land.

Development works can cause issues with noise, smells or light pollution. You can find out more about how the council can help and report an issue on our [ASB, environment and nuisance page](#).

If you need to tell us about a dangerous structure, you can find more information on our [dangerous structures](#) page.

If you need to tell us about a problem with a highway, you can find more information and make a report on our [highways](#) page.

For complaints relating to Building Control, Highways or Environmental Health please contact these departments directly using the links above.

### **What breaches of planning control can be investigated**

The most common planning breaches that we can investigate are:

- Building or engineering work that needs but does not have planning permission.
- Breaches of planning conditions. Planning conditions put restrictions on the way the development must be completed. You can find conditions on the planning decision notice.
- The change of use of land or property.
- Works that are not following the plans that were approved by the council as part of a planning decision.
- Advertisements or signs that need, but do not have permission. You can find out more about whether permission is needed in the [Government guide to advertisement control](#).
- Works to trees that are protected. These are trees with a Tree Protection Order (TPO) or are in a conservation area. You can find out if a tree or woodland is protected or in a conservation area using our [find my nearest](#) interactive map.
- Land or buildings in such poor condition that it affects the character of the area.
- Works to a listed building that needs but does not have permission.
- Relevant demolition works in a conservation area.
- The deposit of waste or mineral extraction that needs but does not have permission.

### **Report unauthorised development**

You cannot report a breach of planning control unless you give us your name and address. This is to avoid malicious complaints. We will keep your identity safe and act within the law.

If the complaint relates to neighbouring property, please speak to your neighbour first before contacting the council. You may find that they have already found out if planning permission is needed. Involving the council can often cause friction between neighbours. You will need to supply the following information:

- Your name and contact details.
- The address/location of the site of the alleged breach.
- The name and address of the person/company/developer causing a breach if you know it.
- The reason you believe there is a breach of planning control.
- The date that the alleged breach began.
- The harm the development is causing to you, or to the character of the area.
- Whether the harm is continuing or likely to get worse.
- What you would like the council to do about the alleged breach.
- Photographs of the issue.

You can also say whether you would like to be kept updated with the outcome of our investigation. You will need to supply an email address or phone number if you would like to be updated.

Please use the 'Report unauthorised development' form which can be accessed [here](#).

To ensure all of the required information is provided that enables us to accurately register an Enforcement complaint, reports must be made via the Report unauthorised development form. You should not submit any reports of unauthorised development directly to an officer on-site, over the telephone or via email.

The council do understand that not all customers are able to submit a complaints form. The team will support customers by gathering information where necessary.

Officers will only usually investigate alleged breaches of the planning legislation that are the subject of the complaint. Should you wish Officers to investigate multiple alleged breaches of the planning legislation, then all of these need to be included within the complaint. Please be advised that complaints that are too vague in their nature may not be registered as a complaint and would therefore not be investigated.

### **How breaches of planning control are investigated**

If it is proved that a breach of planning control has occurred, the Planning Enforcement team will try to resolve the matter initially by negotiation. The enforcement of planning law is particularly complex. It needs to strike a balance between:

- The rights of individuals to use or alter their property in the way they wish.
- The need to safeguard the character and quality of neighbourhoods.
- The need to uphold the planning policies for the local area to protect the public interest.

The investigation process is as follows:

- If you have used our online form the receipt of your report will be acknowledged.
- If an investigation is not necessary, we will contact you and tell you why.
- We will check our files and the details you supply to decide if a breach of control has occurred and whether we will investigate. We may contact you for more information.
- We will allocate the investigation to an Enforcement Officer as soon as possible.
- If deemed necessary, we will visit the site and contact the alleged offender.
- We will tell you when we find that a planning breach has occurred and when we decide if we are taking further action.
- The action we will take will vary. It will depend on the details of the case. We will tell you when we decide on the action we will take. You can find out more about the types of action we can take by reading our Planning Enforcement Policy.

Please do not contact us for an update during the investigation. The law restricts the information we can provide to you and given the complexity of the legislation we are required to consider, investigations can take some time. Where we are unable to complete an investigation within the timescales advised under 'Complaint Priorities' and an investigation has been open for more than two months, a general progress update will be sent to you. However, for cases where there are multiple interested parties, this may not always be possible. We will notify you of a summary of our findings upon completion of the investigation.

### **Complaint Priorities**

Complaints will be prioritised in accordance with the following categories:

**A. High Priority Complaints** – Requiring Immediate Investigation – Investigation to commence within 5 working days from acknowledgement of the complaint.

- A breach that could cause a serious and immediate danger to the public health and/or safety.
- Unauthorised works to a listed building.
- Unauthorised demolition in a Conservation Area.
- Unauthorised works to a tree protected by a Tree Preservation Order (TPO) or situated within a designated Conservation Area.
- Any case where the time limit for taking further enforcement action expires within the near future.
- Any unauthorised development, advertisement or breach of condition which is causing irreparable public harm or danger, including pollution or environmental harm.

**B. Medium Priority Complaints** – Investigation to commence within 15 working days from acknowledgement of the complaint.

- A breach that could cause a continuing risk to public health and/or safety, i.e. not serious and immediate.
- Unauthorised change of use to the detriment of neighbouring amenities.
- Ongoing development unlikely to be granted planning permission without substantial modification.
- Building and other works within conservation areas.
- Non-compliance with planning conditions where they relate to the unauthorised removal of habitats that could be detrimental to protected species/habitats.
- Works relating to minerals and waste.

**C. Low Priority Complaints** – Investigation to commence within 25 working days from acknowledgement of the complaint.

- Other changes of use.
- Untidy land.
- Non-Compliance with planning conditions,
- Advertisements.
- Works to listed buildings not carried out recently.
- Other minor building works and structures e.g. garden sheds, walls, fences etc.

Complainants will be informed of progress within 25 working days.

### **How we resolve breaches of planning control**

In all cases, we will assess the harm that is being caused by a breach of planning control. We will consider how the situation could be remedied without formal action. We can and do take formal legal action against breaches of planning control. Usually, we do so only as a last resort.

The enforcement officer will check the development against local and national planning policies. They will assess whether the development causes harm. Harm that we can consider includes:

- Harm to an amenity. For example, the quality or character of an area.
- Highway safety issues such as danger from increased traffic flow, obstruction or unsafe manoeuvring.
- Loss of daylight or privacy.

We cannot consider:

- Loss of value to neighbouring properties.
- Competition to another business.
- Loss of an individual's view.

If we decide that no material harm is being caused, or that the development is acceptable in planning terms the council cannot take formal action. The investigation will be closed. This is in line with government guidance.

Most cases are resolved through negotiation. Before we take formal enforcement action, the outcome of negotiations can be:

- Considering that the development could be made acceptable with some appropriate changes or amendments. We could look to achieve the **amendments by negotiation** to remedy any harm that is being caused. Negotiating a solution is always quicker than taking formal action.
- Invite the party in breach of planning control to submit a planning application. This happens when the work could be acceptable but needs a formal decision (where for example conditions should be imposed). This is called a **retrospective application**. You will have the opportunity to comment on the application. Please be aware that you need to supply your name and address when you comment on an application. These details will be made

public. Planning applications are determined on their individual merit, taking into account the Local and Neighbourhood Plan for the area, and 'material considerations'. An application cannot be treated differently because it is retrospective.

- Invite an application for a **Certificate of Lawfulness**. If the development has been in place for some time, the law says that it can become lawful. The period depends on the type of development. It could be four years or usually ten years. If a certificate is granted the breach will be immune from any formal action.
- Issue an Enforcement Warning Notice, which is a power introduced by the Levelling Up and Regeneration Act (2023). These would only be used where there is a reasonable prospect of the matter being resolved through a planning application.

If negotiations fail, the council will look to remedy the matter amicably by asking that works stop, and the development is removed. The council also has legal powers to serve a notice that can order the landowner to:

- Supply more information that will help the investigation.
- Take action to remedy the breach. This is known as enforcement action.
- Tidy up land, with a clear timescale to comply.
- In exceptional circumstances, ordering that work must stop.

Enforcement action is used to describe notices which the council issue to remedy breaches of planning control.

The council can pursue a prosecution to ensure that enforcement action is effective. In the most exceptional circumstances, the council can seek an injunction in the County Court or the High Court.

If the council intend to prosecute or seek an injunction, we may ask you to supply a formal written statement.

### **The principles of good planning enforcement**

Planning enforcement is a discretionary power. We consider each case on its own merits to decide what action is necessary. We look carefully at the degree of planning harm the unauthorised development is causing or may cause.

Enforcement action must always be proportionate to the severity of the planning harm. The LPA should not take action just to 'regularise' development which is acceptable on its planning merits for which planning permission has not been obtained.

The council will consider the full range of options when deciding what action to take. This can include negotiation, retrospective planning applications, or where appropriate, formal enforcement action. Or it could decide that no action is required because no harm is being caused.

Planning Enforcement Officers will carry out their duties equitably and consistently:

- Considering each individual matter on its merits.
- Using a consistent approach against breaches of a similar nature and circumstance.

It is worth noting that there are very good reasons why landowners or householders should seek to regularise development. These include being able to sell the land/buildings in the future without conveyancing complications and for insurance purposes.

This does not mean officers treat all cases the same. It does mean officers consider all circumstances of a case. They take into account:

- The council's adopted Development Plan (i.e. the Torbay Local Plan and Neighbourhood Plan for the area).
- The material planning considerations.
- Whether other legislation would be better to achieve the desired outcome.

In all but the most serious cases, we aim to negotiate compliance rather than pursue formal enforcement action. This is providing we can reach an appropriate resolution in good time.

Minor breaches of planning control that do no harm will not have action taken against them. This applies even if the developer refuses to apply for planning permission to regularise the development.

We aim to provide a consistently high-quality service about our planning enforcement duties. This is in accordance with the Government's Enforcement Concordat principles of:

- Standards.
- Openness.
- Helpfulness.
- Proportionality.
- Consistency.
- How to complain about the service.

Compliance with these standards runs through the plan.

### **How can a planning enforcement issue be reported?**

We strongly advise to check whether the development or activity already has planning permission before submitting any enquiry. You can check this using our [online planning register](#).

### **How will the council deal with a report of an alleged breach of planning control?**

When we receive a completed form a member of the team will triage the report. We prioritise our resources for matters which are a breach of planning control where harm is being caused.

If it appears at the outset the reported matter is not a breach of planning:

- We will not set up a case for it.
- We will notify the individual who made the report.
- If a different team within the council or a different agency could deal with it, we will re-direct the enquiry as appropriate.

This means we can focus on the serious breaches of planning control where our intervention is necessary.

Planning enforcement is a lengthy process. Government guidance sets out that formal enforcement action is usually a last resort. If there is a breach of planning control, we usually give the responsible person the chance to put the matter right first. This opportunity is normally given before taking formal enforcement action.

Please note that the specific information relating to the enforcement case would contain personal data. This is as defined under the General Data Protection Regulation (GDPR). We are unable to share this information. This means that we cannot provide regular updates on what is happening in individual cases during our investigation.

If an update on an enforcement investigation is requested, we can only provide information as to what stage the investigation has reached. Once we finish the investigation, we will provide a summary of our findings to the individual(s) who reported the matter to us.

## **What if a report is made about work on my property**

The council recognises that finding out that someone has reported an alleged development or activity on your property to the council can cause anxiety.

It's important that we make sure that people or companies who are the subject of the planning enforcement investigation are:

- Treated fairly.
- Given the opportunity as part of the investigation to explain the situation from their perspective.

If you have received a visit, email or letter from an Enforcement Officer explaining that a matter has been brought to our attention, please don't ignore the issue.

The law provides the council with a series of tools to enable us to carry out a full investigation. This means that the matter will not go away if you ignore the correspondence received about the issue which has been reported to the council.

Under Section 196A of the Town and Country Planning Act 1990, Planning Enforcement Officers have the right to access without notice to investigate a suspected breach of planning control on that land or adjoining land. Officers must give at least 24 hours' notice to enter a dwellinghouse.

Failure to permit officers access to land is an offence. The council reserves the right to prosecute anyone who wilfully obstructs entry. If necessary, we will seek a warrant from the Courts to gain entry.

If you do not engage with the council from the outset to address the matter, you run the risk of the council taking formal enforcement action without further warning.

Please note that the information submitted to the council as part of the initial report is personal information. This means it is likely to be exempt from the provisions of the Freedom of Information Act 2000 (as amended), or the Environmental Information Regulations 2004.

## **What are the possible outcomes of an investigation?**

### **No breach found**

Following a site visit or desktop study we may find there is no breach of planning control. This can be because, for example:

- 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.
- There is insufficient evidence to confirm the allegation.
- The development already has planning permission or,
- The works do not constitute development.

### **There is a breach of planning control but is not considered 'expedient' to pursue**

Expediency is a test which includes assessing the level of harm the development is causing. This test has regard to the development plan policies and other material considerations. Just because a breach may exist this does not automatically mean that formal action will be taken.

We will not take formal action against a breach of control that causes no real planning harm. But we do record any breach of planning control and may advise the developer and/or landowner, as appropriate.

### **Negotiations take place to find a solution**

Where the breach of planning control is unacceptable, we try to negotiate a solution without recourse to formal enforcement action, unless the breach is continuing to cause irreparable harm to an amenity. Negotiations may involve the reduction or cessation of unauthorised development.

The council will consider the specific circumstances of the individual case during negotiations. This can often be the quickest way of resolving an issue.

### **A planning breach is established but is now immune from enforcement action**

The investigation reveals that a planning breach has occurred. But because it has been occurring continuously for so long, it is now immune from enforcement action. For all development substantially complete after 26 April 2024, this period is 10 years. There is no immunity for breaches of listed building control and advertisements.

### **A retrospective application is invited and submitted**

We will invite a retrospective planning application where:

- There is a reasonable likelihood that we may give planning permission, or
- Where a development may be made acceptable by imposing suitable conditions to control how it takes place.

The development will be subject to the planning application process and assessed against planning policies. The views of residents are taken into account. The contents of the enforcement investigation are not included in the planning application.

### **Formal action is taken**

Generally, a small percentage of cases we receive result in us taking formal action. There are a range of formal powers the council can use to remedy breaches of planning control.

Where other agencies or regulatory teams within the council could achieve a more effective outcome, we pass the matter to the relevant team or agency to progress.

### **Authorisation process for Enforcement Investigations**

The Service Manager's authorisation is sought and granted prior to formal action being taken or at the point the enforcement case is closed.

### **What planning enforcement tools are available and when does the council use them?**

Planning laws are designed to manage, and where necessary, control the development and use of land and buildings in the public interest. They are not intended to protect the private interests of one person against the activities of another.

We will not start formal planning enforcement action just to regularise breaches in planning control or seek a planning fee. In taking formal planning enforcement action the council will use whichever available enforcement power or combination of powers that can best deal with an identified breach of planning control. The council will have regard to the development plan and any other material planning considerations.

Material planning considerations include (but are not limited to):

- Development Plan documents.
- Supplementary Planning Documents.
- The Statement of Community Involvement.
- The Annual Monitoring Reports.
- Government planning guidance.
- The council's Corporate Policies.

- Highway safety and traffic levels.
- Noise, disturbance and smells resulting from the proposed development.
- Design, appearance and layout.
- Conservation of buildings, trees and open land.
- Flood risk.
- Impact on the appearance of the area.
- Effect on the level of daylight and privacy of an existing property.
- Need to safeguard the countryside or protected species of plant or animal.
- Planning case law and previous decisions.
- The need for the development.
- The planning history of the site.

Matters that are not considered to be material considerations include:

- Private property rights such as covenants.
- The developer's identity, morals or motives.
- Effect on the value of your property.
- Loss of a private view.
- Private neighbour disputes.

It may be possible to address issues such as these using civil action, though this is a matter for the individual to pursue and is not an area where the LPA would be involved.

Whether the breach of planning control causes planning harm is key to assessing if it is expedient to take formal action. Any action taken will be proportionate to the breach of planning control to which it relates. This approach to enforcement is set out in the:

- National Planning Policy Framework.
- National Planning Practice Guidance.

Individual factors or a combination of factors can cause planning harm. What could be considered harmful in one circumstance may not be considered harmful in others and a judgement will be required.

Some examples of situations creating harm in planning terms are:

- Increasing the risk of flooding.
- Unacceptable design.
- Severe harm to highway safety.
- Loss of a residential amenity, e.g. excessive overlooking of windows or gardens, loss of light, or overbearing by large new buildings too close to property boundaries.
- Detrimental impact on a general amenity, when comparing against the existing character, appearance and environmental quality of a place.
- Harm to heritage assets, for example, a listed building.
- Harm to designated landscapes such as National Landscapes (formerly Area of Outstanding Natural Beauty (AONB)), Conservation Area (CA), World Heritage Site (WHS), etc.

Harm in relation to planning does not include:

- Competition caused to another business.
- Loss of an individual's view or trespass onto their land.
- Ownership disputes.
- Loss of value to a property.

These issues may be private civil matters. You can find advice from a Solicitor or the Citizens Advice Bureau.

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

- The relevant procedures have been followed, and
- That national and local policy on planning and enforcement has been considered.

Where enforcement action is taken and any notice issued is not being complied with, the council would usually seek to prosecute or seek an Injunction in respect of non-compliance. Direct action will rarely be taken and only as a last resort. Prosecution action for an offence will only be taken where the evidential and public interest tests have been met.

The planning enforcement team will not take formal action against a minor breach of control that causes no real planning harm. We will have assessed the matter against adopted policies and all material planning considerations. But we do record any breach of planning control and may advise the developer and/or landowner, as appropriate. This is in line with Government advice set out in the National Planning Practice Guidance (NPPG) which states:

“Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case”.

To decide what is the most appropriate way forward for each case, LPAs should usually avoid taking formal enforcement action where:

- There is a trivial or technical breach of control. This is where it causes no material harm or adverse impact on the amenity of the site or the surrounding area.
- Development is acceptable on its planning merits. Formal enforcement action would solely be to regularise the development.

### **Procedure for monitoring major development sites**

Major development sites require a pro-active approach to monitoring and enforcement. Due to their scale, development on major sites may be away from existing properties, and active building sites are usually not readily accessible to the public. There is therefore scope for significant breaches of planning control to go unreported. Whilst these breaches may well come to light as the development progresses, and properties are sold and occupied, by this stage it may be much more difficult and costly to remedy the breach.

Major developments will also often have a significant number of planning conditions and complicated Section 106 Agreements requiring the delivery of affordable housing, public infrastructure and a range of other requirements. It is the developer’s responsibility to comply with the approved plans, conditions and legal agreements, but these responsibilities are often dealt with at different levels of the developer’s organisation, and it is not uncommon for inadvertent breaches of conditions and agreements to occur as the development progresses. If these are brought to the developer’s attention at an early stage compliance will be easier to achieve.

In view of these considerations, it is proposed to introduce a pro-active system of monitoring major development sites whereby planning officers organise periodic site tours to identify issues. The procedure is set out below:

- For the purposes of this procedure a Major Development Site is defined as one that will provide 10 dwellings or more or is an employment or mixed development site of more than 1 Hectare.
- Officers will conduct a monitoring visit to a Major Development Site approximately 3 months after commencement of development.

- The monitoring visit will be preceded by a desktop exercise to clarify any conditions or obligations that were triggered by commencement of development or that should have been addressed at an early stage.
- The purpose of the visit will be to ensure that these conditions and obligations have been complied with and to ensure that, in general, the development appears to be progressing in accordance with the approved plans.
- It remains the developer's responsibility to ensure compliance with the approved plans, therefore the monitoring visit will not involve detailed checking of setting out of roads and buildings.
- If the visual inspection suggests that there are discrepancies, they will be drawn to the developer's attention and the developer will be asked to provide evidence of compliance with the approved plans within a reasonable timescale.
- Failure to provide the evidence will be treated as a potential breach of planning control and dealt with in accordance with our Planning Enforcement Policy.

The Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) [planning-contributions-spd\\_2022.pdf](#) ([torbay.gov.uk](#)) seeks S106 monitoring contributions where development gives rise to a particular monitoring need (see Section 2.16).

### **Procedure for monitoring Biodiversity Net Gain**

Biodiversity net gain is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity.

In England, biodiversity net gain is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

The biodiversity gain condition is a pre-commencement condition: **once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the planning authority before commencement of the development.**

The successful delivery of BNG and its core objectives requires effective monitoring and enforcement. Without this, there is a chance that BNG could become a tick-box exercise and fail to deliver promised gains.

Sections 2.6 to 2.12 and 2.16 of the Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) [planning-contributions-spd\\_2022.pdf](#) ([torbay.gov.uk](#)) contain advice on S106 requirements and monitoring costs for ecological monitoring, including biodiversity net gain.

### **Monitoring and Enforcement Roles**

#### **What needs monitoring and enforcement?**

There are three key areas of BNG which require monitoring and potentially enforcing:

- Triggers and compliance with planning conditions and Section 106 legal agreements associated with development (i.e. has the development proceeded in line with conditions and any associated planning obligations).
- Triggers and compliance with Section 106 legal agreements / conservation covenants relating to off-site delivery mechanisms (i.e. has the off-site provider complied with associated legal agreements).
- Actual habitat enhancements (i.e. are the habitat enhancements themselves being carried out as agreed and are they delivering the promised outcomes). Legal agreements referred to in the above will include specific monitoring requirements with defined responsibilities.

### **Who is responsible for each part of the monitoring process?**

It will be the landowner or developer's responsibility to ensure monitoring and reporting obligations are fulfilled, or adequately delegated to another body (with necessary funding). Therefore, landowners / developers will ultimately be responsible for monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan.

For on-site gains, the landowner / developer will need to either manage and monitor the habitat creation / enhancement itself or arrange for an appropriate representative management company to undertake this.

For off-site gains, it is likely that the management and monitoring will be undertaken by the developer or by a third party off-site landowner. Proposals in this regard should be identified in the BNG Statement submitted as part of the planning application and will be secured via Section 106 legal agreement.

Landowners / developers will be required to submit monitoring reports to the council in line with the agreed Biodiversity Gain Plan, Habitat Management and Monitoring Plan and any relating conditions and/or Section 106 legal agreements.

For off-site delivery mechanisms, the landowner / off-site provider will be responsible for monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan. Where the intention is to secure the off-site delivery mechanism with the council through an overarching Section 106 legal agreement, proposals should be identified in the associated Biodiversity Gain Plan. Landowners / off-site providers will be required to submit monitoring reports to the council in line with the agreed Biodiversity Gain Plan, Habitat Management and Monitoring Plan and any relating Section 106 legal agreements.

Torbay council has responsibilities in relation to monitoring and enforcement of triggers and compliance with planning conditions and Section 106 legal agreements relating to development sites. Torbay council will also monitor and where appropriate enforce in relation to triggers and compliance with Section 106 legal agreements relating to off-site delivery mechanisms where it is a party to them.

Where an off-site delivery mechanism is secured with another party (e.g. a Responsible Body via a conservation covenant, or another local authority or a neighbouring authority by either Section 106 legal agreement or conservation covenant), then the Responsible Body / other local authority party to that agreement will be responsible for monitoring triggers and compliance with the conservation covenant. The landowner / off-site provider will be responsible for managing and monitoring the habitat enhancements themselves and delivery against the agreed Biodiversity Gain Plan and associated Habitat Management and Monitoring Plan and submitting monitoring reports as required to the Responsible Body / other local authority. In this circumstance, the

council will have no role in monitoring or enforcing compliance with the legal agreement or associated plans for the off-site delivery mechanism.

Torbay Council also has duties to report on BNG delivery under the Natural Environment and Rural Communities (NERC) Act 2006 as amended by the Environment Act 2021. The Act requires local authorities (and LPAs) to publish a Biodiversity Report by 1 January 2026 (and every 5 years after) containing:

- A summary of the actions taken consistent with proper exercise of functions, to further the general biodiversity objective (to conserve and enhance biodiversity).
- A summary of plans for complying with the duty for next 5 years.
- Data required by regulations.
- (For LPAs) action taken in relation to biodiversity gain.
- (For LPAs) expected biodiversity gains resulting from approved Biodiversity Gain Plans.
- (For LPAs) a summary of plans for next 5 years in this regard.

### **Planning enforcement investigation process**

The Planning Enforcement team have a standard process they will follow when an alleged breach is reported. We will only follow all the steps if a formal notice is issued.

#### **Step 1 - Report made**

- The best way to report a matter to us is to complete our online form. Completing the form will help you to provide the information we need. You should try and give us as much detail about the issue and the harm it is causing. You can also attach photographs to your report.
- If you do contact us without using the form, we will still require the same level of information.
- [Report an alleged breach of planning control](#)
- Please include all the required details.

#### **Step 2 – Triage the report**

- If any vital information is missing from your report, a member of the team will contact you. We may also discuss the matter to get a better understanding of the issues and to tell you whether we are able to assist.
- We will tell you if an investigation is not necessary for example, if the works do not require permission and no further action will be taken.

#### **Step 3 - Investigation required**

- An enforcement case will be created. We will send you an acknowledgement email or letter. It will give you the reference number of the case.

#### **Step 4 – Investigate the case**

The case will be assigned to an Enforcement Officer who will carry out a detailed investigation. This could include:

- Checking the planning history of the site.
- Checking the approved plans if planning consent was given.
- Visiting the site for a visual inspection.
- Meeting with the owner of the land or property.
- Checking the law and planning and guidance for the works being carried out.
- Collecting evidence.
- Discussing the case with other council teams or other agencies.
- Searching the Land Registry to find out who owns the site.
- Issuing a formal notice to gather information. This could be a Planning Contravention Notice.
- Requisition for Information or;

- An Interview Under Caution.

### **Step 5 – Deciding if there is a breach of planning control**

- If a breach of planning control is confirmed, we will continue to step 6.
- If no breach is found where there is a technical breach not warranting further action, we will close the case. We will write to you and give you a summary of our findings.

### **Step 6 – Negotiation**

The Enforcement Officer will work with the party who is in breach of planning control to find an appropriate outcome. There are several potential outcomes that could be agreed:

- Discuss changes to the works that mean that planning consent is not required.
- Ask for a planning application to be submitted. This is called a retrospective application.
- Ask for a Certificate of Lawfulness to be applied for. If this is granted, the works will no longer need planning permission or consent.
- Ask that the works stop, and the land or property is returned to its original state.

### **Step 7 – Outcome of negotiations**

- If negotiations are successful, the case will be closed. We will write to you and give you a summary of our findings and the outcome.
- If negotiations are unsuccessful, we will proceed to step 8.

### **Step 8 – Consider formal action**

The Enforcement Officer will look at the details of the case and will:

- Compare it to local and national policies.
- Consider the harm being caused and the material planning considerations.
- Review the comments made by official bodies that we have consulted with.
- Look at any relevant appeal decisions and case law.
- Consider any personal circumstances and the Human Rights of the party who has breached planning control and those making the complaint.
- This step of the process determines whether it is appropriate for the council to take formal action. This is called a test of expediency.

### **Step 9 – The decision on formal action**

- If the council decides that is expedient to take formal action, we will continue to step 10.
- If the council decides that it is not expedient to take formal action, the case will be closed. We will write to you and give you a summary of our findings and the reason we consider that formal action is not expedient.

### **Step 10 – Begin formal action**

The Enforcement Officer will:

- Draft a formal notice and create a file of documents and their report.
- Discuss forthcoming action with the landowner or property owner/occupier.
- Discuss implications with other teams within the council.
- Liaise with any contractors working on the site.
- Undertake up to date Land Registry search and site visit if necessary.
- This step will be completed when the officer visits the site to serve a formal notice.

### **Step 11 – Investigation complete**

- A formal Notice is served. The investigation phase is now complete. We will write to you and give you a summary of the outcome of the case within 25 days of closing the case.

### **Planning Enforcement tools**

The council has several formal tools available when dealing with planning enforcement matters these include:

- **Enforcement Warning Notice:** We can use this if there is a reasonable chance that unauthorised development would receive planning permission. It requests a developer to submit a planning application within a specified timeframe or risk further enforcement action. Not likely to be used for minor technical breaches.
- **Planning Contravention Notice:** Requires persons to divulge information in respect of land and activities. We often use this to determine if there is a breach of control and to help decide the appropriate course of action.
- **Breach of Condition Notice:** Secures compliance with conditions specified within a planning consent. There is no appeal against this type of notice. Fines for non-compliance with this type of Notice can potentially have no limit.
- **Tree Replacement Notice:** Requires the replacement of trees removed without planning consent.
- **Enforcement Notice:** Requires steps to be taken to remedy the harm caused by unauthorised development.
- **Stop Notice/Temporary Stop Notice:** Requires the unauthorised activities to cease immediately. A Stop Notice is linked with an enforcement notice and a Temporary Stop Notice lasts for a period of up to 56 days. A Temporary Stop Notice can now be issued for unauthorised works to a listed building.
- **Listed Building Enforcement Notice:** Requires works to be done to prevent or reverse unlawful works to a listed building.
- **Section 330 Notice:** Requires a party to provide information about their interests in the land.
- **Section 215 Notice:** To secure the proper maintenance of land and buildings and protect a public amenity.
- **Urgent Works Notice:** Enables the Local Authority to carry out urgent works for the preservation of listed buildings in their area after giving notice to the owner.
- **Repairs Notice for listed buildings:** permits the council to serve a 'repairs notice' on the owner outlining the work required to rectify it.

### Information relating to Appeals of Enforcement Notices

The most common form of enforcement action is to issue an Enforcement Notice. The following is intended as a general guide only.

An appeal may be lodged with the Planning Inspectorate against an enforcement notice before it comes into effect. This must be on one of seven specified grounds:

- a) That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- b) That those matters have not occurred.
- c) That those matters (if they occurred) do not constitute a breach of planning control.
- d) That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
- e) That copies of the enforcement notice were not served as required by section 172.
- f) That the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
- g) That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Where a related planning application has previously been made there are restrictions on whether an appeal against an enforcement notice can be made on the ground that planning permission should be granted for the development (Ground a).

If an appeal is made, the requirements of the notice are on hold until the appeal is decided. Appeals against enforcement notices can sometimes take up to a year or longer.

If an appeal is allowed, the enforcement notice no longer applies.

If an appeal is dismissed the notice will take effect once the specified time has passed. This starts from the date of the appeal decision. The steps required must be taken within the period for compliance which will be as set out in the Enforcement Notice as amended in any appeal.

Legal action, such as prosecution, can only be taken if an individual then fails to comply with an enforcement notice. Failure to comply with an enforcement notice is a criminal offence. If the notice is upheld, the penalty for failure to comply is a fine of:

- Up to £20,000 on summary conviction, (usually by the Magistrates' Court) or;
- An unlimited fine on indictment (usually in the Crown Court)..

### **Chargeable discretionary services**

If the council has no statutory duty to provide enforcement functions it will look to recover its costs of providing such a service where it can.

We get several requests each month from solicitors and the general public e.g. whether Enforcement Notices, planning conditions have been complied with etc. We are frequently asked to answer these questions short notice as part of the conveyance process.

The council publishes a list of planning enforcement notices and outcomes online. You can search for and print details of notices and outcomes on our [online planning register](#).

We offer an expedited service for a fee. This gives a guaranteed response within 10 working days from receipt.

We also offer a further expedited service to assist in resolving issues of unauthorised works discovered through the sale process of a property.

Due to the time pressures of the sale, a quick response is required from the council as to whether the works are acceptable or not. We will provide a quick decision:

- Whether the works constitute a breach of planning control and if so,
- What action, if any, you would need to take to resolve the matter.

As noted above, unlawful development or use (i.e. which does not have the required planning consent) can make it difficult to sell property or land. The responsibility to comply with planning regulations runs with the land; which is why it is important to comply with planning requirements even where the LPA is unlikely to take formal enforcement action.

You can find the current fees for these services and others in the Additional Services section of our Fees and Charges document: [Fees and Charges Document for Planning, Building Control and Land Charges](#)

### **Advertisement enforcement**

We will not normally act against advertisements displayed without consent unless they cause significant harm (either on their own or cumulatively) to amenities or public safety.

The council will generally support groups advertising local agricultural shows and similar events. Generally, not more than one advertisement should be displayed at any location. They should be restricted to a five-mile radius of the event venue and removed after the event has taken place.

The LPA does reserve the right to use its discretion not to act:

- If the number of this guidance is exceeded, and
- Where there is no justification for it or where it would not be in the public interest.

### **What if I am dissatisfied with the way the council managed the investigation**

The council recognises that enforcement is often a sensitive matter, and by its very nature, people (on either side) may feel aggrieved by it. As noted above, enforcement decisions must be made in the public interest, which may leave individuals feeling unhappy about the outcome. The council also has limited resources and must treat cases in a proportionate manner. The council will strive to deal with matters as speedily as possible, and as fairly and impartially as possible.

If, having received the council's final response to your enquiry, you are dissatisfied with the way we managed the investigation, you can raise a formal complaint from the council's complaint process by completing our online form.

### **Make a complaint to the council.**

The council's complaint procedure cannot change the outcome of an investigation, including whether formal action was taken, it can only consider whether the process and procedures outlined in this policy were complied with. If you are still not satisfied with the council's final response to your complaint, you can refer the matter to the Local Government and Social Care Ombudsman.

Please note: The Ombudsman will not normally investigate a complaint until the complainant has:

- First followed the council's own complaints procedure, and
- Sought resolution directly with the council in the first instance.

### **Unreasonable customer behaviour**

The council does not normally limit the contact people have with it. This can be whether complaining, making requests for service, information or help and guidance. We are committed to dealing with these requests fairly and impartially. We aim to provide a high quality of service to those who make them. It is keen to resolve any dispute and/or complaint as early as possible.

The level of information that we can provide about an ongoing enforcement investigation is necessarily limited due to the General Data Protection Regulations (GDPR).

The council understands that customers sometimes feel frustrated by this. But we will not tolerate unreasonable behaviour.

Examples of unreasonable behaviour could include when a customer:

- Abuses or threatens staff or other people.
- Pursues a personal grudge.
- Makes unfounded accusations.
- Makes multiple requests that are similar or are unreasonably persistent.
- Pursue parallel disputes and/or complaint(s) on the same issue with a variety of officers, departments or services.
- Makes unnecessarily excessive demands on the time and resources of employees whilst a dispute and/or complaint is being investigated.

- This can include all mediums including social media.

Making excessive demands includes:

- Making excessive telephone contact or sending emails to numerous council employees.
- Writing lengthy complex letters every few days and expecting an immediate response.

Where this happens, we will take appropriate steps to limit the customer's contact with the council. More information is available on the webpage for our [unreasonable customer behaviour policy](#).

Please be advised that contacting the council multiple times is likely to cause delays in the investigating of complaints. We will acknowledge and record the contact, however, unless you are contacting the council to provide new information about the investigation, then a response to this contact will be deemed as low priority and at the Officer's discretion.

### **Government legislation**

1. [Town and Country Planning Act 1990](#)
2. [The Planning and Compensation Act 1991](#)
3. [The Planning and Compulsory Purchase Act 2004](#)
4. [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)
5. [The Localism Act 2011](#)
6. [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)
7. [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#)
8. [The Town and Country Planning \(Use Classes\) Order 1987 \(as amended\)](#)
9. [The Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007 \(as Amended\)](#)
10. [Regulation of Investigatory Powers Act 2000](#)
11. [Police and Criminal Evidence Act 1984](#)
12. [European Convention on Human Rights Article 1 of the First Protocol and Article 8 and Article 14](#)
13. [Anti-social Behaviour Act 2005 - High Hedge Act](#)
14. [The Hedgerow Regulations 1997](#)
15. [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#)
16. [The Planning Act 2008 \(Commencement No 8\) and Levelling Up and Regeneration Act 2023 \(Commencement No 4 and Transitional Provisions\) Regulations 2024](#)

Torbay Council policies

1. [National Planning Policy Framework \(NPPF\)](#)
2. [National Planning Practice Guidance \(NPPG\)](#)
3. [Torbay Local Plan \(2012-2030\)](#)

### **Useful links**

#### **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 - [interactive house](#)

You can also use the [Planning Portal](#) to make a planning application.

#### **Find my nearest**

## **Party Wall Act**

## **Building Control**

## **Highways**

## **SWISCo**

## **Torbay Council Planning Application search**

## **Glossary**

### Breach of Condition Notice (BCN)

- A notice served by the Local Planning Authority (LPA) when there has been a failure to comply with any condition or limitation imposed on a grant of planning permission (e.g. failure to carry out landscaping, not keeping to agreed opening hours).

### Breach of Planning Control

- Where development which requires planning permission has taken place, but this permission has not been obtained or the conditions of the permission have not been complied with.

### Building Operations

- Demolition of buildings, rebuilding, structural alterations of, or additions to buildings, and other operations normally undertaken by a builder.

### Certificate of Lawful Development (CLD)

- Enables Local Planning Authorities, when the appropriate conditions are satisfied in each case, to grant a certificate stating that:
  - (a) an existing use of land, or some operational development, or some activity in breach of a planning condition, is Lawful; or
  - (b) a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be

### Conservation Areas

- Areas of special architectural or historic interest.

### Development

- 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.

### Enforcement Notice

- A notice served by the LPA to remedy an alleged breach of planning control by requiring a use to stop or building works to be removed.

### Expediency:

- Expediency is a test of whether the development is causing serious harm. This test has regard to the development plan policies and other material considerations. Just because a breach may exist does not automatically mean that formal action will be taken.

### General Permitted Development Order (GPDO)

- A national government document which sets out various categories of development that do not require planning permission (e.g. many alterations and extensions to dwellings).

#### Heritage asset

- A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. A heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).

#### Lawful

- In this context Lawful means that the development or use of land specified is immune from compliance action and/or a specific grant of planning permission is not required.

#### Material Conservation

- A matter that is relevant to making a planning decision.
- Generally, relates to the use of land in the public interest, rather than the protection of purely private interests.

#### Permitted development

- Some, usually small scale, development that does not need to obtain planning permission, by virtue of being exempted in the Town and Country Planning (General Permitted Development) Order 2015 or being granted by a Local Development Order.

#### Request for Information S.330 Notice (RFI)

- A notice served on those who have an interest in the premises where there is an alleged breach of planning control including unauthorised development, adverts, trees and listed buildings.

#### Stop Notice

- A notice served in conjunction with an enforcement notice to require unauthorised activities to cease with almost immediate effect.

#### Temporary Stop Notice

- A notice which can be served quickly to stop suspected breaches for 28 days giving the planning authority time to consider all the relevant issues.

#### Town and Country Planning Act 1990

- This is the primary piece of planning legislation and includes sections on Control over Development and Development Plans. Town and Country Planning (Use Classes) Order 2010 - Lists certain changes of use which do not usually require planning permission (e.g. change of use from a restaurant to a shop or from light industrial to offices).

#### Planning Contravention Notice (PCN)

- A notice served by the LPA when it suspects there has been a breach of planning control and information is required about activities on the land or the nature of the occupier's interests in the land.