

Effective enforcement action relies on the Council having accurate information about a suspected breach of planning control. This means that the first part of our investigation is arranging a site visit. This can often involve contacting the owner of the land where the suspected breach of planning control has taken place and/or the person that appears to be responsible for the breach to arrange a site meeting

We prefer to organise a site meeting because this gives us the opportunity to discuss the case with the people involved and it will help us with our investigations if we have a better understanding of what has happened and why. In addition, a breach of planning control may be the result of a genuine mistake where, once the breach is identified, the person responsible may take immediate action to remedy it

However, we will not delay starting our investigations if we are not able to arrange a site meeting or are refused entry to a site. If we are unable to arrange a site visit or are refused entry to the site then we will consider using our rights of entry. If we use our rights of entry, we will inform anybody on site who we are and the purpose of our visit. Our officers will also be carrying their staff cards as proof of identity

Rights of Entry

The Council can authorise named officers to enter land specifically for enforcement purposes ([sections 196A, 196B and section 196C of the Town and Country Planning 1990 Act](#)). This right of entry is limited to what is regarded as essential, in the particular circumstances, for effective enforcement of planning control. The Act specifies the purposes for which entry to land may be authorised ([section 196A\(1\) of the 1990 Act](#)), namely:

- to ascertain whether there is or has been any breach of planning control on the land or any other land;
- to determine whether any of the local planning authority's enforcement powers should be exercised in relation to the land, or any other land;
- to determine how any such power should be exercised; and
- to ascertain whether there has been compliance with any requirement arising from earlier enforcement action in relation to the land, or any other land.

The phrase "or any other land" means that, if necessary, neighboring land can be entered, whether or not it is in the same ownership or is being occupied by the person whose land is being investigated.

[Section 196A of the 1990 Act](#) state there must be reasonable grounds for entering the land for the purpose in question. This is interpreted to mean that entering the land is the logical means of obtaining the information required by the local planning authority when investigating a suspected breach of planning control. It is also an offence to willfully obstruct an authorised person acting in exercise of a right of entry under [section 196C\(2\) of the 1990 Act](#).

Where there are reasonable grounds for entering land for enforcement purposes, and a right of entry is refused or is reasonably likely to be refused, or there is a need for urgency, then it is possible for a Justice of the Peace to issue a warrant to allow entry ([section 196B\(1\) of the 1990 Act](#)). However, entry to a building used as a

dwelling house cannot be demanded as of right unless 24 hours advanced notice of intended entry has been given to the occupier.

Assessing the Evidence

In many cases, we can collect enough relevant information from our historic records of the site, as well as information collected on a site visit and other publicly available information to be able to properly assess whether an actual breach of planning control has taken place and what further action we need to take.

On some occasions we might need to obtain further information to make an assessment of whether there are any legal grounds that mean we cannot take formal enforcement action. In these circumstances, a planning contravention notice may be issued under [section 171C of the 1990 Act](#) and can be used to do the following:

- allow officers to request any information they need for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land; and
- invite its recipient to provide officers with constructive suggestions about how any suspected breach of planning control may be remedied satisfactorily.

One proportionate way to tackle suspected breaches of planning control is to negotiate an acceptable solution with interested parties. Issuing a planning contravention notice can be one way to achieve this, allowing officers to collect the information they need to help progress a case. However, it is an offence not to return a planning contravention notice within the time specified for its return and it is an offence for a recipient to provide false information when completing a planning contravention notice.

When might the Council be unable to take formal enforcement action?

One reason the Council may not be able to take formal enforcement action is when an investigation of a suspected breach of planning control reveals that a breach of planning control has not actually taken place.

For example, we will not take any further action if we find that development or works taking place or completed on a site already has the appropriate planning permission and is being carried out or has been completed in accordance with the permission

We will also not take any further action if we find that development or works taking place or completed on a site benefits from 'deemed consent' because it is permitted development under the Town and Country (General Permitted Development)(England) Order 2015, as amended, or when we find that a sign or advertisement has 'deemed consent' under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

In addition, the 1990 Act and [Town and Country Planning \(Use Classes\) Order 1987](#) (as amended) set out various activities and operations that cannot be considered to be development and does not require planning permission as a matter of law. We will not take any further action if we find that a suspected breach of planning control falls within these statutory provisions and is not development that requires planning permission.