

STATEMENT OF ENFORCEMENT PRINCIPLES PRIORITIES AND GUIDELINES

Sevenoaks District council recognises the importance of establishing effective controls over unauthorised development to assist in the conservation of the natural and built environment and the protection of the quality of people's lives.

This document sets out the standards for the level of service and performance that the public and businesses can expect to receive.

We will carry out our work in an open, fair, equitable and consistent manner. We will consider every complaint on its individual merits. The Council will investigate alleged breaches of planning control, to determine the most appropriate course of action, in proportion to the nature of the breach. The Council will not condone willful breaches of planning control and will exercise its discretion to take enforcement action if it is expedient to do so.

Enforcement legislation is complex and a schedule of the powers available to the Council is set out in the Appendix.

The Council is mindful of the guidance issued by the Government on enforcement. This includes Planning Policy Guidance Note 18 and the corresponding 'Good Practice Guide' linked to Government circular 10/97. The Council will carry out its enforcement role in accordance with this guidance.

1. The Council's Approach

When investigating breaches and taking enforcement action we will assess whether it is expedient to take enforcement action based on a wide range of considerations, including planning policies set out in the Sevenoaks District Local Plan and Kent Structure Plan. These could include the extent of any harm or the impact on the environment, amenity and quality of life.

We will attempt to persuade owners or occupiers to remedy any breaches of planning control voluntarily. We will not, however, allow this requirement to hamper or delay enforcement action unnecessarily, where such action is required to overcome harm.

2. Enforcement Priorities

All complaints are investigated according to the seriousness of any harm they may cause. Except for high priority complaint (category 1) that requires an immediate response, complaints will be prioritised before a site visit is made. Prioritisation will be based on the nature of the breach of planning control and the degree of harm.

There may be situations where a breach would not normally be a high priority, but it is in the Council's interests to act quickly. Such situations will be considered on a case by case basis.

a) Category 1 – High Priority

This is any unauthorised development that causes immediate and irreparable harm in the locality.

It could include the flagrant damage of a listed building, felling of protected trees, or uses that cause immediate and serious damage to the public, or their quality of life due to noise and disturbance at unsociable hours.

Category 1 complaints will, wherever possible, be given an immediate response. Where necessary, staff from other disciplines such as environmental health and building control will be called to attend on site to assess the extent of any harm.

b) Category 2 – Medium Priority

This is unauthorised development that causes some harm to the locality, but not to the extent that Category 1 applies.

This could include, for example, complaints relating to use of land for the storage of vehicles, erection of a domestic outbuilding, extension of a residential curtilage, use of agricultural buildings for industrial purposes, or breaches of planning control relating to hours of use.

c) Category 3 - Low priority

This is for inconsequential breaches of planning control that cause little or no harm to the locality or local residents.

This could include neighbour disputes, the erection of fences or outbuildings within lawful domestic curtilages that are marginally above permitted development tolerances or minor variations from approved plans that have no additional impact on the environment or adjoining residents.

NOTE:

During the investigation of complaints, the nature of the breach may change and new breaches can occur. The Officer responsible for the case, in discussion with the Team Leader and/or other Officers, can increase or reduce the priority of a complaint at any time, as and when required to respond to any changes in circumstances.

d) What you can expect

Those informing us of a breach of planning control

- i) The source of all notifications of alleged breaches of planning control will be kept confidential. Anonymous reports will be investigated and dealt with in the same way as those from an identified source, in so far as we are able to do this.
- ii) Notifications will be acknowledged within 3 working days of receipt. Acknowledgements will provide a contact name, telephone number and explanatory guide to the planning enforcement system explaining in general terms how the case will be dealt with.
- iii) Within ten working days of the receipt of the notification, the Council will confirm how it intends to pursue the alleged breach.
- iv) In cases where an application is submitted to the Council in an attempt to regularise a breach, we will write to you giving you an opportunity to comment on the application.
- v) Where a decision to issue an enforcement (or similar) notice is made by the Council, we will notify you within five working days confirming the decision.
- vi) When an enforcement (or similar) notice has been issued by the Council, we will notify you within five days giving details of the precise requirements of the notice and the time allowed for compliance with its requirements.
- vii) Where an appeal is lodged with the Planning Inspectorate against a notice issued by the Council we will write to all interested parties and those who may be affected by the breach, telling them of the appeal and how they may contribute to the appeal process, should they wish to do so.
- viii) Where a prosecution hearing has taken place concerning the matter reported, we will advise you within five days of the court hearing to confirm the decision made.
- ix) Where a decision has been made to take no further action on a case, either because no breach has been discovered, the breach has been rectified, or it is not considered expedient to pursue the matter further, we will notify you giving those reasons, within five working days.

- x) Where, following a decision to take no further action on an enforcement case, additional information is received on the matter we will be prepared to reconsider our decision in the light of that information and will advise of the outcome.

Those who may be responsible for a breach

- i) When making initial investigations into an alleged breach we will not assume that a breach has in fact occurred, or that you are responsible for it.
- ii) We will not enter your property unless we believe that it is necessary to do so in order to establish whether a breach has occurred. (All inspecting officers carry authorised identification cards.)
- iii) Where we believe a breach of planning control has occurred and that you are responsible, we will explain this. We will describe what we would like you to do to remedy the breach, a timescale for action by you and the consequences for you of not taking that action. We will also give you an opportunity to discuss the matter informally.
- iv) Where a breach of control has occurred that is broadly in accordance with the Council's planning policies and environmental standards we will offer you the opportunity to submit an application to regularise the situation, (possibly in an amended form). If the Council approve such an application, conditions may be imposed that will require you to alter the building works or the way you use the property.
- v) Where a breach of control is unacceptable in the light of the Council's planning policies and environmental standards we will advise you of this and that the submission of an application would not be worthwhile.
- vi) Where we consider it expedient to issue an enforcement notice we will give you a written warning and offer you a reasonable period in which to rectify the breach voluntarily.
- vii) Where the Council has decided to issue an enforcement (or similar) notice to rectify a breach we will advise you within five working days of the fact, (even though this may be some time before the notice is issued because of the need to identify all relevant parties.)
- viii) Where we find it necessary to serve an enforcement (or similar) notice on you we will advise you of what we require you to do, the timescales involved and the options open to you, including the lodging of an appeal with the Planning Inspectorate where appropriate.

- ix) Where, following the identification of a breach, we decide to take no further action, either because the breach has ceased or it is not considered expedient to take any further action, we will advise you within five working days.
- x) Where, following a decision, additional information is received on the matter we will be prepared to reconsider our action in the light of that information and will advise you of the outcome.

3. Processes and Procedures

Any complaints of alleged unauthorised works or development are dealt with by the planning Enforcement Team.

The Council's leaflet "Planning Enforcement – The Process Explained" provides information about the handling of complaints. In addition the various stages involved in the processing of a complaint and the procedures leading up to the issue and possible prosecution of an Enforcement Notice are set out in Diagrams 1 and 2 attached.

4. Making a Decision Whether to Take Action

Like most local Councils, Sevenoaks District Council operates a system known as 'delegated powers' where senior officers can make a decision whether or not to pursue enforcement action. The majority of decisions are made in this way.

Enforcement cases that are particularly sensitive or raise specific or complicated legal issues are normally presented to the Development Control Committee for a decision. This Committee is made up of 19 elected Councillors from all political parties who are appointed to oversee control of development. The Committee meets every three weeks.

In practice only a minority of cases investigated result in formal enforcement notices being issued. In the majority of cases it is established that no breach of control has taken place or the matter is resolved by voluntary agreement or through the grant of retrospective planning permission.

5. What If Things Go Wrong

We aim to provide a courteous and efficient enforcement service and hope that you will not have cause for complaint. If you are not satisfied please contact Nicola Clinch (Enforcement Team Leader - 01732 227369) or Kelvin Hinton (Head of Development Services – 01732 227313).

We also have a formal Council complaints procedure, details of which can be sent to you on request.