

Draft Enforcement Policy

September 2009 Consultation

Our commitment to enforcing the planning regulations

Introduction

Effective enforcement is necessary to protect the integrity of the planning system and for the proper planning of the borough. Planning seeks to strike a balance between the rights of landowners to the enjoyment of their land, whilst at the same time protecting the amenities of their neighbours. Other integral issues include protection of trees and the protection of historic buildings and areas.

As an authority we do not stand in the way of development without justification. We also expect land owners and developers to observe the spirit of the planning legislation and not carry out development until the necessary planning permission has been obtained. [Forms and Guidance](#) When development does take place without permission we have a full range of enforcement powers available to establish whether a breach of planning control has taken place, what harm is caused as a result of the breach and how to remedy the situation.

The emphasis of Charnwood's enforcement policy is on persuasion, influence and education to secure the aims of the planning legislation and planning policies. [View our Local Plan](#). Where harm is evident, swift and firm action will be taken against individuals or companies that ignore planning controls, as set out in this policy. The primary role of enforcement is to investigate alleged breaches of planning control (including unauthorised development and non-compliance with the conditions of a valid planning permission) and bring about remedial action, where appropriate.

Normally the carrying out of development without the appropriate consent does not constitute a criminal offence; however there are some activities such as unauthorised works to a Listed Building works to protected trees, or trees within a conservation area, and advertisements displayed without consent would be an immediate offence.

Charnwood Borough Council has adopted the national [Enforcement Concordat](#) for regulatory services. The Government set out guidance for enforcement within local government and Charnwood is committed to following the good practice identified within the guidance.

Complaints

The authority rely generally on the public to report breaches of planning control as well as breaches that are confirmed by monitoring development in progress, or by planning officers and Members. There is an established procedure for investigating those complaints and also established targets for dealing with complaints efficiently and effectively.

Procedure

You can report complaints in a number of ways, either by e mail or by letter, or by visiting the Council Offices and completing a complaint form, but we do not accept anonymous complaints. These requirements will only be relaxed where the breach is; an immediate criminal offence, a threat to public safety, or a clear and credible threat to the proper planning of an area. Any investigations into anon complaints in these circumstances will be at the discretion of the Council.

As a minimum the Enforcement team will require:

- i) The exact location of the alleged breach
- ii) Details of the breach
- iii) The name and address of the complainant

The name and address of any complainant will be kept confidential to the council, although if you make representations on any subsequent planning application these will be available for the public to read. It should be understood that whilst the Council would not reveal the identity of the complainant during the course of inspecting a case, in many cases the identity of the complainant can be logically deduced, i.e., there may be only one property from which a complaint could have logically originated.

Allegations that development has been carried out without planning permission will be recorded individually. We will **acknowledge any complaint made in writing within 3 working days** and the complainant will be given the name of the enforcement officer dealing with the matter.

Investigations will begin as soon as possible, **we aim to visit all sites within 10 working days** although priority will be given to those alleged breaches, such as unauthorised building works, which need to be dealt with quickly before work becomes too advanced or in the case of works to a Listed Building or protected trees this would receive urgent attention.

The complainant will be informed of the outcome of any investigations within 15 working days of the complaint being received. Should the investigation confirm that no breach of planning control has taken place and the complaint will be closed.

At times it may not be possible to establish whether a breach of planning control is/has taken place, in such cases we may issue a "planning contravention notice" this is a formal request for information to be provided by the developer requiring information on precisely what is taking place and an explanation as to why no planning permission has been sought. The complainant will be kept informed of the investigation and initial findings and also any response we receive to the notice.

Where it is clear that a breach of planning control has taken place we often invite a planning application. This has the advantage of allowing us to get full details of the work that has taken place and consult neighbours before making a decision. It is also in line with Government advice: [PPG18](#). It may also be possible to make

amendments or impose conditions which overcome the concerns of neighbours. Once an application has been submitted it will be treated on merit like any other application.

If an application is not submitted, we will decide whether or not an Enforcement Notice should be served. If, for instance, the unauthorised development is considered not to cause any harm, or had an application been submitted it would have been granted then enforcement action is not appropriate. The decision not to take further action will be reported to the Ward Councillors.

We will endeavour to refer unresolved breaches of planning control for formal action, if it is expedient to do so, to a Plans Committee within 8 weeks of a breach having been confirmed. Formal action can take the form of an enforcement notice or, in the case of an immediate offence, as in issues of fly posting or unauthorised works to a listed building, prosecution in the Magistrates court.

Enforcement

Enforcement Notices are documents served by the council which can require the unauthorised use of the land to stop and/or any buildings or structures that do not have planning permission to be removed. The council must find out the names of all the owners and occupiers of the property and make sure they are served a copy of the notice. The notice itself must be precise as to what action the council wants taken and by what date. There are rights of appeal to the Planning Inspectorate and the notices can be challenged if they are inaccurate.

When conditions imposed on a planning permission are being disregarded, the council can serve a "Breach of Condition Notice" on the developer or occupier. If this is not complied with, we can take legal action. There are no rights of appeal against a Breach of Condition Notice. Where appropriate, the council will use this procedure in preference to the service of Enforcement Notices. [View Enforcement Notices Served.](#)

We give high priority to the preparation and service of the appropriate notices. **We aim to serve the notice within 6 weeks of their authorisation.**

The complainant will be informed when the enforcement notices are served, what action they require and when the period for compliance runs out.

The complainant and neighbours will be advised of any [appeal](#) that is lodged against an enforcement notice and the grounds upon which the appeal has been made. They will then be able to make further comments to the planning inspector dealing with the case, although at this stage the names and addresses of complainants cannot be kept confidential.

Arrangements to inspect the premises will be made by the officer dealing with the case no later than 5 days after the compliance period runs out in order to find out whether the requirements of the enforcement notice have been satisfied.

If the unauthorised development remains in place after the enforcement notice becomes effective the council will start legal action as soon as possible and the complainant will be kept informed of the outcome of any prosecution. As a last resort the council will consider carrying out works itself to remedy the breach.

When an enforcement notice is served the existence of the notice will be placed as a land charge on the property and will remain in perpetuity. An enforcement notice may cause problems with the future sale of a property.

Should you wish to submit complaints electronically please complete a complaint form and e mail it to: development.control@charnwood.gov.uk

The Enforcement Team

The team currently comprises of:

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