

LOCAL ENFORCEMENT PLAN



CHESTERFIELD
BOROUGH COUNCIL

Adopted: 29th September 2025

CONTENTS

1. Introduction
2. The Planning Enforcement Service
3. Enforcement Enquiries
4. Investigations
5. Formal Action
6. The Council's Powers
7. Timescales
8. Complaints and Performance

This Local Enforcement Plan was adopted by the Planning Committee of Chesterfield Borough Council on 29th September 2025

(Minute no: 50)

1. INTRODUCTION

At Chesterfield Borough Council we are committed to providing high quality services which give Best Value and make the best use of the resources available in order to maintain and enhance the environment and quality of life for all residents.

The enforcement service is essential for the effective management of our environment. It looks at potential breaches of planning control, takes enforcement action where breaches of control have occurred and it is expedient to do so and provides advice to recipients of enforcement action and interested parties.

This Plan aims to assist you in understanding the enforcement process. It establishes the framework for the delivery of the service and outlines our service commitments to you, our customers.

2. THE PURPOSE OF THE PLANNING ENFORCEMENT SERVICE

The Council has a duty to investigate breaches of planning control and has powers to remedy such breaches by statutory and other means. It is the policy of the Council to exercise these powers to ensure that development takes place in accordance with the appropriate legislation or conditions of any planning permission imposed by the Council.

This Plan outlines the procedures and standards of service that can be expected when enquiries are made about unauthorised development under the relevant legislation.

Planning enforcement can be a complex process with varying timescales. The aim of this Plan is to ensure that adopted procedures are fair and reasonable, interested parties are kept informed and aware of what is required, and that the outcome of any action taken is commensurate with the breach of control.

National planning policy (NPPF para 60) sets out 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 take action where appropriate.*

Where possible we will seek to negotiate rather than take formal action with the intention of managing enforcement proactively, in a way that is appropriate to the Borough.

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

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

A contravention of the limitations on, or conditions belonging to, permitted development rights, under the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), constitutes a breach of planning control against which enforcement action may be taken.

Undertaking unauthorised works to a listed building is an offence as defined by the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(legislation.gov.uk\)](#), Section 9.

The display of advertisements is controlled under the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended). The Regulations seek to control the height, size, positioning and illumination of advertisements, with regard to amenity and public safety. To display any advertisement, the advertiser must have consent from the landowner, and it must not cause a risk to public or highway safety. The advertisement must also comply with the appropriate requirements of the Regulations. Anyone who displays an advert without the necessary consent is acting illegally.

Anyone who cuts down, uproots, tops, lops, wilfully destroys or wilfully damages a tree covered by a Tree Preservation Order or a tree within in a conservation Area, or causes or permits such work, without giving a section 211 notice (or otherwise contravenes section 211 of the Town and Country Planning Act 1990) is guilty of an offence, unless an exception applies.

3. ENFORCEMENT ENQUIRIES

The Council relies to a large extent on members of the public bringing breaches of planning control to its attention however officers will also become aware of breaches in their day to day work. Breaches can take a number of forms:-

- work being carried out without the benefit of planning permission;
- an unauthorised change of use;
- non-compliance with conditions imposed by a planning permission;
- departures from the approved plans of a planning permission.
- Unauthorised works to a tree in a conservation area or covered by a Tree Preservation Order
- Unauthorised works to a listed building

- Unauthorised advertisement displays and flyposting
- Untidy land

Where someone considers that a possible breach of planning control has taken place they should in the first instance contact the Enforcement Team either via our online form:

<https://www.chesterfield.gov.uk/planning-and-building-control/planning-permission-and-development-management/planning-breaches-and-enforcement.aspx>

or via email: planning.enforcement@chesterfield.gov.uk

or call: 01246 959678

or via your local Ward Member if you would prefer for them to act for you

[Chesterfield Borough Council - Your Councillors \(moderngov.co.uk\)](http://www.chesterfield.gov.uk/your-councillors)

When communicating with us, as much relevant information as possible should be provided. In particular, the address or location of the property concerned and full details of the alleged breach (with dates, times and photographic evidence if relevant) to be given. Contact details should be provided.

Where a breach of planning control is established, a written complaint with photographs can be a valuable source of evidence where the matter is pursued. Please be aware that your enquiry or complaint will be treated as confidential and details will not be passed on. However, anonymous enquiries or complaints will not normally be acted upon.

In many circumstances, enquiries are received which do not concern planning issues. The enquirer will be advised should the matter be referred to a more appropriate team within the Borough Council. Where enquiries do not relate to activities of the Council the enquirer will be notified.

In dealing with enforcement enquiries, we will:

- Consider the confidentiality of anyone reporting unauthorised development;
- Consider what is alleged and investigate any breach of planning control;
- Refer enquiries which do not relate to planning issues to the relevant Council Department, where this is related to a CBC matter;
- Notify individuals where enquiries do not relate to activities of the Council.

4. INVESTIGATIONS AND RESPONDING

Upon receipt of an enquiry an acknowledgment will be sent to the enquirer within 5 working days setting out that we have received their comments and that we will consider the case and respond initially to this within 28 days.

Once the case has been acknowledged it will be given a priority ranking and will be allocated to an Enforcement Officer. The Enforcement Officer will then investigate the alleged breach including visiting the site and checking any planning history. The Enforcement Officer will determine, in relation to planning legislation, whether a breach of planning control has taken place, responding to the enquirer within the 28 day period noted in the original acknowledgement. Following this response, the timescale of the investigation will vary and therefore the Enforcement Officer will update the enquirer every 8 weeks as to how the matter is progressing until a final response setting out reasonings and conclusions on the case is sent advising that the case has been closed.

As set out above the Council will not issue an enforcement notice in respect of most breaches of planning control, but rather will seek to work with any landowner to resolve the breach without the need for formal action where this is possible. Once an enquiry has been investigated, the Officer will identify the relevant actions to be pursued in the case.

Where No Further Action Is Proposed:

When it is proposed to take no further action, either because no breach has been established, where a minor or insignificant breach has occurred, where it is not expedient for the Council to pursue action (ie because planning permission would otherwise be recommended for approval) or there is insufficient evidence to pursue the matter, the enquirer will be advised of this.

Where A Breach Is Established:

Where a breach is established and further action is required, the enquirer will be advised that the matter is to be investigated further. There are a variety of courses of action available to the Council. The ability to take enforcement action is entirely at the discretion of the Council and the type of action taken will relate to the nature of the breach.

There are three principal courses of action available to the Council:-

- negotiate a solution to rectify the breach, this is the favoured course of action in most cases,
- encouragement of the submission of a retrospective planning application which may be via an Enforcement Warning Notice, the application would be considered in the same way as any other planning application based on the planning merits of the case,
- formal action eg service of an enforcement notice. In such cases the matter will be reported to the planning committee for a determination as to whether action should be taken. There will however be no report to the planning committee in cases where a prosecution is necessary.

Prioritising cases -

To make the most efficient and effective use of the resources available to the Council, when a breach is established, it will be assessed with regard to:-

- any associated risks or dangers to the public;
- effect upon individuals;
- effect upon amenity;
- any other relevant factors.

Based upon this assessment, the breach will be allocated a priority rating and will be dealt with by the Enforcement Officer on the basis of this rating:-

Priority 1 (Red): Public danger or significant works involving damage to listed buildings or to protected trees.

Priority 2 (Orange): Complaints relating to loss of amenity or other significant public or private impact (including those covered by conditions of consent and/or in regard to ongoing developments), e.g. noise and smell nuisance.

Priority 3 (Pink): Complaints relating to minor developments or domestic disputes, e.g. fences, sheds, extensions, satellite dishes, vehicular access etc unless they relate to serious amenity issues or public safety

Priority 4 (Blue): Proactive checking and following up conditions applied to planning permissions granted.

5. FORMAL ACTION

When formal action is authorised by the planning committee, a notice will be served on the relevant parties (this is anyone with a legal interest in the land) specifying what action they are required to undertake to correct the breach.

An Enforcement Notice is a legal document. As such, it is necessary for the Council to ensure that all information on the notice is accurate. This often requires details of the owner, occupier or lessee of a site to be clarified prior to the service of a notice including Land Registry checks.

The notice will specify the period during which the steps required by the Enforcement Notice must be carried out. There is no statutory minimum period, but the period must be reasonable having regard to the actions required to be undertaken.

Compliance With An Enforcement Notice:

Once a Notice is served it is the legal duty of the recipient to comply with the Notice. Where a Notice is complied with, to the satisfaction of the Council, the matter will be closed however the Notice will remain as a charge against the property and remain in force. The recipient of the Notice has a right to contest the Notice by means of an appeal to the Secretary of State. If an appeal is made the terms of any Notice are

held in abeyance until such time as a decision is reached. Where a Notice has been served and has not been complied with by the relevant date and the recipient has not lodged an appeal, the matter may be referred to the Magistrate's Court for a possible prosecution. However, in some cases, it may be possible to resolve the matter by direct action to be undertaken by the Council. In such circumstances, the cost of any work undertaken by the Council is recoverable from those with a legal interest in the site however such a course of action will first need to be agreed by planning committee.

6. THE COUNCIL'S POWERS

As noted previously, enforcement action can involve the issue of a Notice. There are a number of different types of Notice available to the Council. The specific types of Notice issued will depend upon each individual case and any legal advice obtained. However, it should be emphasised that taking enforcement action is a discretionary power under the Town and Country Planning Act 1990.

Powers of Entry

We have various rights of entry to undertake investigations which are set out in legislation:

S196A of The Town and Country Planning Act 1990 (TCPA) – Rights to enter land without a warrant at any reasonable hour to ascertain whether there is or has been any breach of planning control on land or any other land.

S196B (TCPA) – Right to enter under a warrant.

S196C (TCPA) – Right to take any other persons as may be necessary for the purposes of the investigation.

S214A, 214B, 214C (TCPA) – Rights of entry in connection with injunctive proceedings.

S324 (TCPA) – To enter any land for the purpose of the preparation, revision adoption or approval of a local development order under Part 2 of the Planning and Compulsory Purchase Act or local development plan.

S88, 88A, 88B of the Planning (Listed Building and Conservation Areas) Act 1990 – Powers of entry in relation to heritage and listed building cases.

We will act responsibly when undertaking enforcement investigations, as follows:

Leaving the land - On leaving the land, the authorised person shall, if the owner is not then present, leave it as effectively secured against trespassers as it was found.

Entry to agricultural land - In the interest of animal and plant health, special precautions are essential when the right of entry on to agricultural land is exercised.

Animal health - In circumstances where there is an outbreak of a serious disease in animals (i.e. foot and mouth, anthrax, avian flu), officers should abide by notices displayed on farmland. Officers should not enter land in circumstances where they could be responsible for the spread of disease. Officers should contact DEFRA or the Local Animal Health Office in the first instance.

Plant health - Where there is a serious plant disease, access to land may be strictly controlled. Disease can spread on footwear and officers should contact DEFRA for advice and assistance.

It is an offence to wilfully obstruct an authorised officer exercising the above powers in connection with their duties.

Vulnerable person(s) - Should the initial site visit be undertaken and it is found that only vulnerable people are present on the site. The visit will be abandoned, and contact will be made with a responsible person to arrange a suitable time and date. No photographs will be taken that could include vulnerable persons.

Time Limits to Enforcement Action:

The ability of the Council to take enforcement action is also related to when an unauthorised development or change of use was carried out. Generally, the Council would be prevented from taking action against any development that was carried out over a period of time where legislation dictates that the development has to be considered as lawful and immune from any enforcement action, this has recently been defined in legislation as a 10-year period.

Types of Notice:

The various Notices that can be used in relation to breaches of planning control are:-
Planning Contravention Notice: Normally used at the start of an investigation and requires the person on whom it is served to provide details of any operations or works which have been carried out and details of anyone with a legal interest in the site. Questions are asked and a response must be made within 21 days otherwise a legal offence has been committed which could result in prosecution.

Section 330 Notice: Has a limited use and is generally used to ascertain information relating to interest in land.

Breach of Condition Notice: Deals with breaches of any conditions attached to a permission which has already been granted. There is no right of appeal against this notice.

Enforcement Notice: The notice most generally used to deal with unauthorised development. An Enforcement Notice will specify a time to take effect and will specify what steps must be taken to remedy the breach and also a reasonable period by which these must be complete. There is a right of appeal against an Enforcement Notice and the terms of the Notice are suspended until a decision is reached on the appeal by the Secretary of State or the High Court where a subsequent appeal has been lodged.

Listed Building Enforcement Notice: Can be issued where there have been works to a Listed Building without consent or failure to comply with a condition attached to a consent. There are no time limits for issuing a Listed Building Enforcement Notice and irrespective of whether a notice has been issued, the carrying out of work without the necessary listed building consent is an offence under s9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Replacement Tree Notices: s207 of The Town and Country Planning Act 1990. Notwithstanding the offences in relation to carrying out unauthorised works to trees, if a protected tree is removed uprooted or destroyed, the owner of the land has a duty to replace the tree under s206 and s213 of the Act. If satisfactory replacement is not carried out, the Council can serve a formal Notice under Section 207 requiring the replacement to be carried out in a specified timeframe. Failure to comply with the Notice will give the Council the powers to carry out the works under s209 of the Act and recover the costs.

Stop Notice: Only used in particularly urgent or serious cases requiring the cessation of unauthorised activity that has implications for public safety or related issues. This Notice would normally be served with an Enforcement Notice but would be able to require the immediate cessation of an activity. If a Stop Notice is served without due cause, or a subsequent appeal against a parallel Enforcement Notice is sustained, the Council may be open to claims for compensation for any loss of damage directly attributable to the Stop Notice.

Temporary Stop Notice: May be issued where there has been a breach of planning control and it is expedient that the activity should stop immediately. The notice is effective for 56 days from the date of display or as specified in the notice. It is an offence to contravene a Temporary Stop Notice.

Section 215 Notice: The Council may issue a notice requiring steps to be taken to tidy up land when its condition adversely affects the amenity of the area. The Notice

will be issued on the owner or occupier of the land requiring the works to be carried out within a specified time period. There is a right of appeal to the Magistrates Court. If the notice is not complied with, the Council may prosecute the owner for non-compliance or enter the land to carry out the works in default and recover the costs from the owner. It is an offence to contravene a s215 Notice, and the Council has the power under s219 to carry out the works in default and recover the costs if the Notice is not fully complied with.

Injunctions: s187B of the Town and Country Planning Act 1990. Where the local planning authority considers it expedient to restrain a breach of planning control, it can apply to the High Court or County Court for an injunction. Under section 214A of the 1990 Act, the local planning authority may apply for an injunction to restrain an actual or apprehended offence under section 210 (work on TPO trees) or section 211 (work on trees in a conservation area). An injunction may also be used to enforce listed building control (to cease works to listed buildings). It is an offence to contravene an injunction.

All of the above Notices will clearly set out what breach of control has taken place, what steps should be taken to remedy this and the consequences of failure to do so. They also set out the offender's rights of appeal where appropriate.

Enforcement Warning Notice: This is a document that formalises the process for the Council when it considers it appropriate to invite a retrospective planning application. The Notice states what the recipient of the notice is required to do in order to regularise the breach of planning control, either by submitting a planning application for the development or by proposing that the development will be removed or that an activity will cease, with a time limit for compliance with the notice and a warning that failure to comply within this period may result in further action. There is no right of appeal against the notice.

Appeals and Penalties:

Recipients of Enforcement Notices have, in most cases, a right of appeal. Appeals are made to the Secretary of State and, once the matter is before him, it is outside the control of the Council. The Secretary of State appoints an Inspector to consider the matter and most cases are dealt with by written submissions. The Inspector may uphold, vary or quash an Enforcement Notice.

7. TIMESCALES

It is not always possible to anticipate how a particular case will develop and the timescale for resolving a complaint can be difficult to predict. It can be a source of concern to complainants that unauthorised development can persist for some time.

Those factors which can delay progress include:-

- the collection of relevant and satisfactory evidence;
- ongoing negotiation to try and resolve a case without resorting to formal action;
- the submission of a retrospective planning application;
- an appeal against a formal notice.

However, during the course of an enforcement investigation, we will:

- Endeavour to keep all complainants informed of progress until the resolution of a particular case as set out in section 4 above.

8. COMPLAINTS AND PERFORMANCE

The Council hopes that you will be satisfied with the Enforcement Service which we provide. If you have any suggestions, concerns or difficulties we want to hear from you. We are committed to improving our service and dealing promptly with any failures. If you are not satisfied about the way in which a case has been dealt with then it is open to you to submit a complaint. You can find more about this process here: [Comments, compliments and complaints \(chesterfield.gov.uk\)](https://chesterfield.gov.uk/comments-compliments-and-complaints)