

# Enforcement Plan

November 2015

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## **1.0 Introduction**

Paragraph 207 (Enforcement) of the National Planning Policy Framework (NPPF) states that “Local Planning Authorities 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 it is appropriate to do so.”

This policy aims to provide clear guidance on how Rossendale Borough Council will achieve the above objectives.

## **2.0 What is Planning Enforcement?**

Planning enforcement is a Council service that deals with any alleged breach of planning control. We also monitor conditions imposed on planning permissions wherever possible to ensure that development is being undertaken in accordance with the planning permission.

The Council can only enforce planning legislation, and therefore cannot get involved in private disputes, for example breaches of restrictive deeds or covenants, boundary disputes or rights of access. Individuals with such concerns should contact a private solicitor who may be able to pursue civil action.

### **2.1 What we can take action against**

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 as:

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

Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended), constitutes a breach of planning control against which enforcement action may be taken.

The Council's Planning Enforcement Team also deals with certain other unauthorised activities, such as:

- Unauthorised display of advertisements
- Unauthorised works to protected trees
- Unauthorised work to statutorily listed buildings

## **2.2 What we cannot take action against**

Certain works may not require permission, either because they do not constitute development (as expressed within Section 55 of the Town and Country Planning Act 1990) or they may be defined as 'permitted development' within the Town and Country Planning (General Permitted Development) Order 2015. Further information on these matters can be found on the following website:

[www.planningportal.gov.uk](http://www.planningportal.gov.uk)

## **2.3 Time limits for enforcement action**

With breaches of planning control arising from building or engineering operations the Council cannot take enforcement action after the end of a period of four years beginning with the date on which the operations were substantially completed.

With breaches of planning control concerning the change of use of a building to a dwelling, the Council cannot take enforcement action after 4 years from the commencement of the breach.

Other planning breaches (such as other unauthorised changes of use of buildings or land) are subject to a 10-year time limit from commencement. After that time, the Council cannot take action and the use becomes lawful.

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action (as set out in Section 171B of the Town and Country Planning Act 1990) have expired. In such cases the Council may apply to the Magistrates Court for a Planning Enforcement Order (PEO). A PEO enables the Council to take action in

relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

There is no time limit for enforcement action against unauthorised work to a listed building.

### **3.0 Our Planning Enforcement Procedures**

The Council's Planning Enforcement activities will be carried out having regard to Paragraph 207 of the NPPF and the guidance contained within National Planning Practice Guidance (NPPG), which can be found on the following website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/>

Upon receipt of a valid complaint<sup>1</sup> allegations of breaches of planning will be registered and acknowledged in writing within seven working days of receipt. The acknowledgement will include the investigation reference number and the name and contact details of the case officer.

The Council will keep enforcement files and the complainant's details confidential unless they are subsequently requested in Court, in which case it may no longer be possible to keep them confidential.

The Council will exercise its discretion in deciding whether to take enforcement action, having regard to the development plan and any other material considerations.

Action will not be taken solely because development has started without planning permission. The particular circumstances of the case must always be considered and the Council will respond in a proportionate manner. It may not be expedient to take formal action against a breach of planning control that causes no real harm.

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<sup>1</sup> See Section 4.0 for how to make a valid enforcement complaint

### 3.1 Priorities

Complaints will be investigated as soon as possible, however given resource constraints it is often necessary to give priority to those cases where the greatest harm could be caused. The Council will investigate complaints in the following order of priority:

#### **Priority One - High**

Cases where there is a risk of serious irreversible harm (e.g. unauthorised demolition of a Listed Building)

Unauthorised works to protected trees (e.g. trees covered by a Tree Preservation Order (TPO) or trees within a Conservation Area)

Non-compliance with a formal notice (e.g. with an Enforcement Notice)

#### **Priority Two - Medium**

Alleged unauthorised changes of use of land and building and/or engineering works that could cause harm (e.g. household extensions)

Breaches of planning conditions and developments not being built in accordance with approved plans

#### **Priority Three - Low**

Development unlikely to cause any significant harm (e.g. sheds, fences, minor building operations)

Advertisements

### 3.2 Courses of Action

If following investigation it is found that no breach of planning control has occurred, no further action will be taken and the complainant(s) will be notified.

Where an investigation does identify a breach of planning control, there are several options available to the Council. The Council will use its discretion in deciding whether to take one of the following options:

#### Take no enforcement action

The Council will normally avoid taking formal enforcement action where:

- There is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- Development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- In their assessment, the Council considers that an application is the appropriate way forward to regularise the situation (for example, where planning conditions may need to be imposed) and the developer is willing to apply.

#### Negotiation

Addressing breaches of planning control by negotiation without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy.

#### Formal enforcement action

If it is unlikely that retrospective planning permission would be granted for the development in question, the Council may commence enforcement action if it is expedient to do so, after allowing an appropriate time period for the breach to be remedied.

Several options are available to the Council when taking enforcement action, one or more of which may be appropriate depending on the situation. Such options include:

<b>Planning Contravention Notice (PCN)</b>	This notice allows the Council to require any information they want for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and can be used to invite its recipient to respond constructively to the Council about how any suspected breach of planning control may be satisfactorily remedied.
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<p><b>Enforcement Notice (EN)</b></p>	<p>These will be the normal means of remedying unacceptable development where the Council's enquiries meet with no satisfactory response. The notice allows the Council to specify exactly what needs to be done to remedy any harm caused by the breach of planning control. There is a right of appeal to the Secretary of State against the Notice, which can be quashed or amended. The Council may choose to "under-enforce" to remedy a specific problem. In such circumstances the remaining building or use will be deemed to have planning permission when the Enforcement Notice has been complied with.</p>
<p><b>Listed Building Enforcement Notice</b></p>	<p>This Enforcement Notice applies to listed buildings and is similar to an Enforcement Notice in most respects. It can require the removal of any unauthorised works or the reinstatement of the fabric of the listed building that has been removed. There is a right of appeal against such a Notice to the Planning Inspectorate.</p>
<p><b>Conservation Area Enforcement Notice</b></p>	<p>This type of Enforcement Notice is used in Conservation Areas when works have been carried out in contravention of the Planning (Listed Buildings and Conservation Areas) Act 1990. An example of this would be the unauthorised demolition of a building in a Conservation Area, and the requirement of the Notice would be to rebuild it. There is a right of appeal against such a Notice to the Planning Inspectorate.</p>
<p><b>Breach of Condition Notice (BCN)</b></p>	<p>This notice requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the Council in the notice. Any recipient of a BCN will be in breach of the notice if, after the compliance period, any condition specified in it has not been complied with, and the steps specified have not been taken or the activities specified have not ceased.</p>
<p><b>Stop Notice</b></p>	<p>A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in the related enforcement notice, ahead of the deadline for compliance in that enforcement notice. A stop notice cannot be served independently of an enforcement notice, and will only be used in specific circumstances given the implications for the developer and the risk to the Council of claims for compensation if the associated Enforcement Notice is subsequently quashed at appeal.</p>
<p><b>Temporary Stop Notice</b></p>	<p>A temporary stop notice can be issued to seek immediate cessation of the breach of control. Unlike a Stop Notice, it does not require an enforcement notice to be served first. It is only valid for a period of 28 days, by which time the Local</p>



	Planning Authority can decide upon the most appropriate course of action. There is no right of appeal against a Temporary Stop Notice.
<b>Section 171B – Planning Enforcement Order</b>	The Council may apply to the Magistrates’ Court for a Planning Enforcement Order if evidence comes to light that a breach of planning control has been concealed. This prevents the development from becoming immune from enforcement action where it has been deliberately concealed.
<b>Injunction</b>	The Council can, where they consider it expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control.
<b>Works in Default (Direct Action)</b>	The Council has the power to enter land and carry out works that are required by an Enforcement Notice. Similar action is available for non-compliance with other forms of notices.
<b>Section 225 Notice</b>	The Council may serve a notice requiring the removal of placards and posters.
<b>Section 225A Notice</b>	The Council may serve a notice requiring the removal of structures used for the unauthorised display of advertisements.
<b>Discontinuance Notice</b>	Such a Notice requires the removal of an advertisement displayed with the benefit of 'deemed advertisement consent', i.e. an advertisement that would not normally require consent from the Council to be displayed.
<b>Section 215 Notice</b>	A relatively straightforward power to require the owner or occupier to carry out works to improve the external condition of a building or land if its neglect is adversely affecting the surrounding area.
<b>Urgent Works Notice</b>	A power that allows a local authority to directly carry out works that are required urgently to make an unoccupied listed building weather tight and thus prevent further deterioration.
<b>Repairs Notice</b>	A power that allows a local authority to specify to the owner works it considers reasonably necessary to secure the future of a listed building.
<b>Compulsory Purchase Order</b>	When all other measures fail, the local authority’s last resort is to compulsorily acquire a listed building in order either to repair it itself or more usually to sell it on to be restored by a buildings preservation trust or other new owner.
<b>Prosecution</b>	The Council may prosecute persons who have failed to comply with the requirements of the various notices, or who are

	suspected of committing planning-related offences (e.g. unauthorised works to protected trees or listed buildings).
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For more information on all the above, please visit the Government's National Planning Practice Guidance website at:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/>

Once complaints have been investigated and the appropriate course of action as outlined above has been taken the Officer assigned to the case will contact the complainant(s) to provide an update on the outcome of the investigation.

Investigations will not be formally closed until the recommendation of the assigned Officer has been ratified.

### **3.3 Preemptive Measures**

The Council will adopt a proactive approach to monitoring the implementation of planning permissions. As part of this proactive approach the Council's Planning Enforcement Team will ensure that a preemptive letter is sent out with all planning and related approval notices.

The preemptive letter will advise that conditions are attached to the permission which must be complied with (or an application submitted and approved for their removal or variation), along with the time periods for determination of such applications and the type of enforcement action that the Council would take if it is found that a breach has occurred. In this way applicants/developers will have the information they require to proceed with the development in a timely manner in accordance with the permission granted.

### **4.0 How to make an enforcement complaint**

If you suspect that a breach of planning control has taken place that may cause harm, the Council encourage you to report it to the Planning Enforcement Team, using the procedure outlined below.

Complaints can only be made by fully completing the Planning Enforcement Complaint Form. You can access and submit the form in a number of ways, including:

- Online at [www.rossendale.gov.uk/planningenforcement](http://www.rossendale.gov.uk/planningenforcement) - This is the quickest and easiest way of making a complaint, as you can complete and submit the form directly to us online.
- By downloading the Planning Enforcement Complaint Form from our website and emailing your completed form to [planningenforcement@rossendalebc.gov.uk](mailto:planningenforcement@rossendalebc.gov.uk)
- By downloading the Planning Enforcement Complaint Form from our website and posting your completed form to the following address:

Planning Department  
Rossendale Borough Council  
Futures Park  
Bacup  
OL13 0BB

- By collecting the Planning Enforcement Complaint Form from the Council's Duty Planning Officer in the One Stop Shop at the above address (available on Mondays, Wednesdays and Fridays between the hours of 09:00 – 12:00). Completed forms can be returned to the same address.
- By contacting the Duty Planning Officer on 01706 252580 during the above hours and requesting the form be posted out to you.

All complaints must be made by submitting a fully completed form. However, in cases of extreme urgency (e.g. demolition of a Listed Building or the felling of trees covered by a Tree Preservation Order) you may also wish to inform us immediately by telephone so that we can act more promptly. In such cases please telephone the Planning Manager on 01706 252420. A complaint form will still need to be completed.

## 5.0 How long will it take?

Whilst the majority of complaints can be addressed quickly without the need for formal action, some investigations take a considerable amount of time due to their complexity. In addition, where formal action is taken or a retrospective application is submitted, rights of appeal may exist against the Council's decision which can take several months to determine. As such there is no standard timeframe for dealing with enforcement cases. Complainants will be kept up to date with the investigation by the case officer.

## 6.0 Further Assistance

Further information and guidance on the above can be found on the following websites:

[www.rossendale.gov.uk](http://www.rossendale.gov.uk) – contains links to the Council's relevant planning policy documents. Advice can also be obtained by contacting the Duty Planning Officer directly on 01706 252580 (Mondays, Wednesdays and Fridays between the hours of 09:00 – 12:00).

[www.planningportal.gov.uk](http://www.planningportal.gov.uk) – contains advice on permitted development rights, when planning permission is required and the appeal process. A planning application can also be submitted online via this website.

[www.legislation.gov.uk](http://www.legislation.gov.uk) – relevant Government legislation can be found here, such as The Town and Country Planning Act 1990.

<http://planningguidance.planningportal.gov.uk/> - A link to the Government's National Planning Practice Guidance

<http://planningguidance.planningportal.gov.uk/blog/policy/> - The Government's National Planning Policy Framework

<http://www.historicengland.org.uk/> - Historic England