

**Bolton's planning
enforcement policy**

Introduction

Bolton is a diverse and vibrant town and we do not seek to apply a "one size fits all approach" to planning enforcement, but the benefits of a clear and well understood policy framework are important.

The enforcement of planning controls contributes to the achievement of the main aims of the Council by creating sustainable communities in conjunction with sustainable developments by:

- Protecting the amenity and community safety of those who live and work in Bolton from the adverse effects of undesirable developments and the severe neglect of land and buildings.
- Ensuring that environmental, economic and social benefits negotiated through planning applications are achieved.
- Protecting the natural and built heritage of the district.
- Enabling business to operate in a manner that maintains economic competitiveness without it being achieved at the expense of the environment and public amenity whilst encouraging investment into the town.

The planning enforcement process is not only about reacting to complaints about breaches of planning controls and keeping a check on the implementation of larger scale projects. Planning enforcement powers when used proactively and imaginatively, in cooperation with other Council services and external agencies, can make a significant contribution to wider regeneration and urban quality issues that are key elements of the sustainable development strategy and inward investment goals of the council.

This is exemplified by the role that the planning enforcement staff, working closely with building control surveyors, can take in tackling untidy land and dilapidated and derelict buildings as an integral part of the council's regeneration initiatives expressed in the Bolton Plan. We also work closely with officers across the Council and particularly with Regulatory Services to tackle issues that have wider social and community impacts.

We have recently introduced a proactive monitoring system and recruited an additional officer to the team to fulfil this function. This means that a selection of developments are monitored from start to finish to ensure compliance with the planning permission. This intended to further bolster confidence in the process.

In drawing up clear standards and setting the level of service and performance, we have endeavoured to direct our function to the relevant parts of the new Bolton Plan. This ensures that the work ties into the Council's agenda. To ensure that the service delivers effectively, we will:

- Be open and helpful in undertaking the enforcement function by providing advice in plain language, explaining what rules are being contravened and how the problems can be overcome.
- Minimise the costs of compliance with the Town and Country Planning regulations by ensuring that any action required is proportionate to the risks or harm caused by the breach.
- Carry out enforcement duties in a fair, equitable and consistent manner.
- Provide the necessary information to those being regulated of their statutory rights within the appeal procedures.

Guiding principles

Planning enforcement follows three guiding principles. These are expediency, proportionality and consistency.

Expediency

In deciding whether it is appropriate to take enforcement action the degree of harm that the unauthorised development is causing, or is likely to cause will be carefully considered.

Harm can arise through a range of factors, for example:

- Noise nuisance or disturbance from a business operation
- Danger and disturbance due to significantly increased traffic flow
- Loss of privacy or overshadowing and loss of natural light
- Adverse impact on visual amenity due to poor design or inappropriate materials
- Loss of protected trees or loss or damage to protected buildings and buildings in a conservation area.

Risk of pollution that affects people or the natural environment

- Developments that undermine the purpose and credibility of adopted national and local planning policies
- Untidy land and run down or derelict buildings that present a very poor quality urban environment and prejudice community safety

Harm does not include:

- Competition caused to another business
- Loss of an individual's view or trespass onto their land
- Loss of value to a neighbouring property

Proportionality

Where enforcement action is taken it should be proportionate to the seriousness of the harm being caused. For example:

- Restricting hours of working or settling noise limits on a business activity that is otherwise acceptable but is giving rise to disturbance at certain times of day rather than seeking to prevent the operation altogether
- Requiring the removal of a window or insertion of obscured glazing in a house extension when overlooking is a problem, rather than requiring the whole extension to be removed

Consistency

This means taking a similar approach to similar circumstances to achieve similar outcomes. It does not imply uniformity; rather a full and proper consideration of all the circumstances of a case, guided by the council's adopted policies and priorities, to establish what reasonable and adequate requirements to remedy a breach. We will promote consistency by:

- Liaising across the council's various services that have enforcement responsibilities and by links with other planning authorities, both locally and in those cities facing similar planning issues
- Following the advice contained within government guidance on legal, procedures, planning policy and good practice
- Keeping up to date with ministerial statements, reported appeal decisions and court judgements

How we will deal with your complaint

We think that it is important to investigate every complaint that we register. If upon receipt of your complaint, it is not something we can assist with, we will not register it and let you know without delay, directing you to the appropriate department or solution.

Once your case is registered it will not be possible to assess the impact and significance of the problem until a site visit is undertaken.

We aim to acknowledge your complaint within three working days following receipt, advising of timescale for Initial site visit and case officer contact details.

On receipt of a new enforcement case it is placed into one of the three categories set out below that determine how quickly an initial site visit will be carried out. Currently, the categories are listed 1, 2 and 3. These priority categories reflect the anticipated level of harm that the breach may be causing and the potential for requiring urgent action to halt any unauthorised activity.

For more information see [Frequently asked questions](#).

Category 1: Aim to visit within 24 hours

This would include works to protected trees, listed buildings and demolition in a conservation area and any works considered to be causing significant and immediate harm to the amenity of a locality.

Category 2: Aim to visit within 14 days

This would include on-going building operations or any other works (except those of a minor nature such as detached domestic garages or porches), changes of use where the activity is considered to be having a significant adverse impact, breaches of planning conditions relating to the above developments and the display of recently erected large advertisement hoardings.

Category 3: Aim to visit within 21 days

This would include what the council considers to be less harmful and minor developments such as; the erection of domestic outbuildings, boundary fences and satellite dishes

When the initial investigation is completed an assessment is made of the information obtained. Where no breach of planning control is found the case can be closed, you will be notified as soon as possible. Where a breach is identified we will let you know of our intended plan of action.

We will concentrate our efforts on targeting actionable breaches of planning control to ensure that early and effective enforcement action is taken to resolve those matters. There will be cases where a breach of planning control has taken place but is unactionable by the Council. Generally, an unactionable case would be where we consider that on its planning merits there would be no reason to refuse planning consent should the development be applied for or where it is so small that it could not be deemed to affect any acknowledged public harm. In those cases, in line with national Government guidance around the enforcement of planning control we will come to the view that the breach is not expedient to pursue further. The circumstances of every actionable breach will be considered and swift action will be taken in those cases that result in harm that may be irreparable or where there is a significant risk to public safety. Early action can prevent a further deterioration in amenity or the consolidation of an unacceptable activity.

In many instances involving possible changes of use or breaches of conditions such as hours of operation, further monitoring will be required to build up a clear picture of the nature and scale of the problem. Complainants will be asked to assist in this process by completing log sheets of activities that they have observed.

Where cases are not resolved or not subject of any of the above, we will inform you of the current status of the case following an internal case review of the case you are involved with. The case reviews take place four weekly.

If we take the considered view that further action on the case is not expedient, we will let you know and give you the reasons why we have come to this view. In our experience, in some cases where we have taken a decision that a case is not expedient to pursue further, some complainants have made a formal complaint through the Council's own procedures or ultimately to the Local Government Ombudsman. We will ensure that there is consistency in the decision-making process relating to this aspect of the enforcement case.

What we will do when a breach of planning control has been confirmed

The Council is not obliged by law to take enforcement action in respect of any breach of planning control. The Town and Country Planning Act 1990 requires that enforcement action shall be taken only when it is expedient to do so and has regard to the provisions of the Development Plan and any other material considerations. The decision on how to proceed on each case is within the Council's sole discretion. However, that discretion is not unfettered. Account will be taken of other material considerations such as planning appeal decisions, ministerial statements and legal precedents.

Our planning enforcement priorities, so far as possible, reflect the diversity of the area and enable us to focus on specific planning control issues that concern local communities. In developing and improving planning enforcement within Bolton, we will continue to consult with stakeholders, our partners and with the users of the service.

In terms of administrative procedures, the Local Government Ombudsman has determined that it is maladministration to fail to investigate a duly made complaint of a possible breach of planning control.

Where it is decided to take enforcement action in response to a breach of planning control, the Council has a range of statutory powers available to it to seek information about, and to remedy the activities being undertaken and the persons involved. The Council can serve statutory notices setting out what actions are required to remedy the breach of planning control and when necessary take prosecution action, seek court injunctions and undertake works in default.

There are statutory time limits within which enforcement action must be taken or the breach becomes immune and the unauthorised development is then lawful. For example, enforcement action cannot be taken against building works or the change of use of a building to a single dwelling, including the subdivision of a house into self-contained flats, if the development took place more than four years ago. The time limit in respect of other changes of use or the failure to comply with planning condition is 10 years. There is no statutory time limitation on taking action against breaches of listed building control.

When we will take formal action

The decisive issue when considering taking enforcement action further is based on whether the breach of control unacceptably affects public amenity or the existing use of land and buildings meriting protection in the public interest.

We will provide a consistent and transparent framework in the decision-making process. Planning enforcement is consistent with four key planning terms of reference. These are:

- Objectives of the development plan met by ensuring that unauthorised development does not undermine the purpose and credibility of its policies and proposals.
- Planning permissions and consents met by ensuring that developments are in accordance with approved plans, conditions and obligations.
- Protection of listed buildings, conservation areas, protected trees and hedgerows and other scheduled sites in the built and natural environment.
- Protection of residential amenity from undue disturbance resulting from commercial activities and from inappropriate domestic and commercial buildings e.g. noise, dust, overshadowing, loss of outlook.

Where serious harm is being caused, enforcement action will be swift and proportionate to remedy the effects of the breach of planning control

How we monitor our performance and effectiveness

Monitoring of our performance against targets will be undertaken on a quarterly basis and the results reported as a local performance indicator. We consider that the suggested targets are challenging to the service but also reasonably achievable. The performance targets will be reviewed annually. Our current targets are:-

For 60% of cases to have had their first site visit within the above categorised timescales from the date of receipt. It is recognised that all cases should be visited as soon as possible to establish the facts and to be able to take appropriate action succinctly.

For 50% of cases where there is an actionable breach to reach a key milestone by 13 weeks we recognise that negotiated solutions may take some time to implement with the best intentions and that in providing a service shouldn't be seen to resort to formal action as a first response in every situation. Also, where informal action appears to have achieved satisfactory outcome problems may re-occur within a few months, and so it would be desirable to keep cases open and to continue to monitor sites to ensure compliance. The target allows scope for cases to be resolved through negotiation even agreeing acceptable timescale and avoids perverse incentives to either close case prematurely in the hope that matters are resolved or to take more formal action solely to meet a process target.

A monthly process of case reviews continues until the final resolution of a case and so if, for example, a negotiated solution no longer appears to be achieving the required outcome or some other change in the nature or level of activity on a site occurs that causes new impacts, the case action plan will be changed to meet the new circumstances.

A qualitative assessment of service performance will be undertaken through an annual client satisfaction survey carried out on a sample of 150 cases (equating to about 10% of the cases received each year) taken as the cases are closed.

As well as measuring effectiveness of process, we will measure effectiveness of outcomes through assessment of the success rate of appeals and prosecutions.

Legislative provision

Planning enforcement operates within the provisions of the Town and Country Planning Act 1990, and the more detailed national policy frameworks set out in the National Planning Practice Guidance on planning enforcement and the National Planning Policy Framework 2019. These are both published by the Ministry for Housing, Communities and Local Government (MHCLG)

