

Business & Regeneration Directorate

# Planning Enforcement Plan

July 2017

| <b>Contents</b>   | <b>Page</b>  |
|---|--|
| 1. Introduction   | 3-4  |
| 2. What represents a breach of Planning control   | 5  |
| 3. Reporting alleged breaches of planning control   | 6  |
| 4. Priorities for action  | 7  |
| <b>Flow Chart 1 – Planning Enforcement Process</b>  | <b>8</b>   |
| 5. The Investigation of alleged breaches of planning control                                | 9 -11  |
| <b>Flow Chart 2 – Planning Enforcement Formal Action</b>                                    | <b>12</b>  |
| 6. Enforcement action for breaches of planning control                                      | 13-15  |
| <b>Flow Chart 3 – Enforcement Notice formal action</b>                                      | <b>16</b>  |
| 7. Non compliance with a formal Notice  | 17   |
| 8. Monitoring Planning conditions and planning obligations                                  | 18-20  |
| 9. Enforcement action for listed buildings, protected trees, Untidy land and advertisements | 21-22  |
| 10. Conclusion  | 23   |
| <b>Appendix A</b>   | DCLG Summary of available powers for dealing with illegal and unauthorised encampments by gypsies and travellers:<br><a href="https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments">https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments</a> |
| <b>Appendix B</b>   | Example of a CBC Breach of Condition Notice  |
| <b>Appendix C</b>   | Example of a CBC Enforcement Notice  |

## 1. Introduction

- 1.1 National guidance on planning enforcement in England is given in the National Planning Policy Framework (NPPF) 2012. Government policy guidance within the National Planning Policy Framework makes it clear that:
- enforcement action is a discretionary power,
  - Local Planning Authorities should act proportionately in responding to suspected breaches of planning control
  - that enforcement action should not be taken simply to remedy the absence of a planning permission where development is acceptable on its planning merits
  - Local Enforcement Plan should set out how the local planning authority is to handle alleged breaches of planning control.
- 1.2 Planning Enforcement is part of the Council's Development Management service to promote quality buildings and environments in accordance with Government policies and the Council's development policies as detailed in the emerging Local Plan for Central Bedfordshire.

### **Minerals & Waste Planning Authority**

- 1.3 As a unitary single-tier Authority, the Council also fulfils the role of Minerals and Waste Planning Authority. The principal areas of enforcement work carried out by the Minerals and Waste Planning Authority include:
- a) The monitoring (pro-active enforcement) fee charged periodic inspection of permitted mineral and landfill related waste sites to identify and resolve non-compliances;
  - b) The regular inspection of establishments or undertakings carrying on the disposal or recovery of waste.
  - c) The investigation and resolution of alleged breaches of planning control at minerals or waste related development following receipt of a complaint.

#### **Definitions**

- 1.4 'The winning and working of minerals' includes the extraction/mining of minerals both in and under the surface and the operation of ancillary and associated plant, buildings and machinery for processing materials.
- 1.5 'Waste management facilities' include waste transfer stations, material recycling facilities, composting facilities, scrap metal operations; end of life vehicle dismantlers; incinerators, waste treatment facilities including sewage works and the disposal of waste to land.
- 1.6 The Minerals and Waste Planning Authority also carries out this work for Bedford Borough under a regularly reviewed Service Level Agreement. (SLA) Bedford Borough Council has adopted it's own Enforcement Plan which will apply in that area.

### **Role of the Environment Agency**

- 1.7 The Environment Agency is responsible for the licensing of waste carriers and in the detailed management of both minerals and waste operations. The Minerals and Waste Planning Authority works closely with the Agency to resolve environmental issues at individual sites. The legislative powers available to the Agency are different from those of the Planning Authority. The Environment Agency has a national 24 hours 7 days a week

emergency number to report incidents of pollution (Call 0800 80 70 60) and has staff 'on call' to deal with emergency pollution incidents.

## **What the Planning Authority and the Minerals & Waste Planning Authority aim to do with regard to breaches of planning control:**

- 1.8 We aim to provide a high quality re-active and pro-active approach to planning enforcement within the resources available.

The Council aims to provide the principles of good planning enforcement as follows:

- To publish clear standards of service and performance through this enforcement plan.
- To only investigate alleged breaches of planning control. Other non planning complaints will be forwarded to the appropriate service, and frivolous and vexatious complaints will not be investigated.
- To normally not investigate anonymous complaints and not deal with business competition complaints.
- To deal with all alleged contraveners in an open, fair and professional manner.
- To resolve breaches of planning control by investigation and through negotiation and without taking formal action whenever possible, but formal action will be taken if it is expedient to do so.
- To take action as it considers appropriate to resolve breaches of planning control in the public interest, having regard to all material planning considerations or other relevant circumstances which the Council is aware of.
- To be consistent in our investigations and decisions.
- To provide information and advice at appropriate times to interested parties on planning enforcement cases and issues and in compliance with the Data Protection Act 1998 and related legislation, guidance and policies.
- To keep complainants details confidential except where disclosure may be required by law and in compliance with Data Protection.
- To maintain and enhance the pro-active approach to the monitoring of minerals and waste related developments in accordance with national guidelines.
- To provide a pro-active approach to planning enforcement within resources available, including monitoring housing developments for compliance with pre-development conditions.

### **1.9 Enforcement Service Standard**

- We aim to resolve 80% of re-active enforcement cases within 26 weeks of the date of receipt.
- **If formal enforcement action is taken the resolution of the case usually takes in excess of 26 weeks.** *(The offender normally has a right of appeal to the Planning Inspectorate and the matter is held in abeyance until the outcome of the appeal is known.)*

### **1.10 Other legislative considerations**

- Governments Enforcement Concordat and the Regulatory Compliance Code.
- Government (Miscellaneous Provisions) Act 1976
- Human Rights Act 1998
- Data Protection Act 1998
- Freedom of Information Act 2000
- Equality Act 2010
- Localism Act 2014

## 2 What represents a breach of planning control?

### Planning Control

2.1 A breach of planning control may include any of the following:

- Failing to comply with a condition or the details of the approved plans related to a planning permission.
- Carrying out certain development without planning permission
- Carrying out certain changes of use without planning permission
- Carrying out certain demolition work in a Conservation area without consent
- Neglecting land or buildings to an extent which causes serious harm to the appearance of the area.

***Please note: It is NOT normally a criminal offence to carry out any of the above without the benefit of a planning permission (if needed).***

Please also note that the above is not an exhaustive list but is intended to be illustrative of the kind of matters that can constitute a breach of planning control and there may be other actions not listed above that could also constitute breach of planning control.

2.2 **Criminal Offences:** The breaches of planning control that normally do constitute criminal acts and can be subject to high financial penalties if found guilty in the courts include the following: -

- Carrying out works to a protected listed building without consent
- Carrying out works to a tree within a Conservation Area without consent, or works to a protected Tree Preservation Order (TPO) tree without consent
- Displaying advertisements without consent (in terms of how it is displayed, not the content of the advert)

### Retrospective planning applications

2.3 The Town & Country Planning legislation encourages the local planning authority to process a planning application for a development or change of use of land that has already taken place without permission assuming that the correct application fee is paid and the appropriate drawings are submitted and validated.

***Please note: There is currently no financial penalty imposed in England for carrying out the development/change of use and then making a retrospective planning application.***

The handling of all planning applications is by the Development Management Area Teams and normally once a respective application is received then the Planning Enforcement case file is closed and no further action will be taken pending the outcome of the application.

The fact that an application is retrospective may be taken into account when determining the planning merits.

## **Building Control is covered by the Building Regulations legislation**

- 2.4 Building Control is completely different to planning control and operates under its own Building Control legislation and adopted Council policy. The role of the service is to check that when buildings are constructed and/or altered or demolished that they comply with the current standards. The aim is to protect the health, safety and welfare of people in or around them.
- 2.5 In recent years the Building Control service has been opened up so that any developer has the option to use other organisations other than the local authority to carry out the inspections and check the compliance with the Building Regulations.

***Please note: Construction work that only needs to be the subject of Building Regulations or a Building Notice is not required to be the subject of any local or neighbour publicity. This means that the details will not be on the CBC website***

### 3 Reporting alleged breaches of planning control

3.1 The Government is keen to encourage the economic prosperity of the individual and to ensure that the regulatory provisions associated with development work is directed to the protection of the character and appearance of the locality in the public interest. Therefore before reporting an alleged breach please:

3.2 **Check that the alleged breach is not ‘Permitted Development’**

- Refer to the Planning portal website for advice on whether planning permission is required. [https://www.planningportal.co.uk/info/200125/do\\_you\\_need\\_permission](https://www.planningportal.co.uk/info/200125/do_you_need_permission)

3.3 **Check that the alleged breach does not already have planning approval**

- Refer to the ‘Planning’ section of the CBC website <http://www.centralbedfordshire.gov.uk/PLANTECH/DCWebPages/AcolNetCGI.gov>

3.4 **Why is the alleged breach causing you harm?**

The following matters are NOT valid objections under Planning legislation;

- Adverse potential loss of value to your property
- Conflict with an established Right of Light or change to a view from your property
- Alleged trespass or land ownership/boundary encroachment
- Breaches of a covenant e.g. parking of a touring caravan on a drive
- Unfair competition with other businesses. e.g. display of advertisement boards

These are all likely to be private civil matters. The Planning authority has no legal right to become involved and if challenged by the alleged contravener, a complaint to the Council could lead to the authority being found guilty of maladministration because of the inappropriate use of resources to attempt to resolve a ‘non planning’ matter.

- **Is the alleged breach within the public highway?** : If YES then log a complaint via the CBC website: <http://www.centralbedfordshire.gov.uk/transport/report/highways-fault.aspx>
- **Does the alleged breach cause you disturbance from noise, dust, smell?** – If YES then use the CBC website: <http://www.centralbedfordshire.gov.uk/> and refer to the *Environmental issues* section.

3.5 **If you are satisfied that none of the above applies then either:**

- **Complete the e-form on-line on the Council website** ; <http://www.centralbedfordshire.gov.uk/planning/enforcements/report-breach.aspx> or
- Email: [planningenforcement@centralbedfordshire.gov.uk](mailto:planningenforcement@centralbedfordshire.gov.uk)

***Please note: Anonymous complaints will not normally be registered unless there are personal safety reasons for anonymity and the complaint relates to a high priority case such as unauthorised works to a Listed Building.***

#### Reporting gypsy and traveller encampments

3.6 The Planning Enforcement team deals with all types of planning issues, and with regard to travellers and gypsies the key issue is – ***where exactly have the caravans/vehicles been parked up?***

- On the public highway or on Council land– The CBC Community Safety team have responsibility because their involvement is to ensure that the welfare of the persons involved is adequately taken into account. There is a standard procedure that does NOT include a role for the Planning Enforcement team.
- On private land (where the encampment occupiers are considered trespassing) – The moving on of travellers and gypsies is the responsibility of the person(s) who owns the land to take action. The Planning Enforcement team will monitor progress.
- On private land either owned by the travellers and gypsies or where the land owner allows the use of the land as a traveller and gypsy site. The Planning Enforcement team will investigate and resolve in accordance with the normal procedures as set out in this Planning Enforcement Plan.

3.7 In order to investigate a potential breach as much information as possible is required: -

- The name and address of the complainant
- The name and address of the alleged contravener, if known
- The precise location of the site.
- The nature of the alleged breach
- The length of time that the situation appears to have continued and an indication of whether it is still continuing
- An explanation of the harm, if any, that it is causing the complainant specifically, and/or the area generally

**CONFIDENTIALITY in relation to all reports:** It is our policy not to reveal any information that is likely to identify the complainant, in line with the Data Protection Act 1998. We may be asked to reveal information under the Data Protection Act 1998 or the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. Any decision we make to reveal any information would need to show that there is a public interest in doing so.

## 4 Priorities for investigation

4.1 Due to the limited resources available it is essential that we prioritise cases in accordance with the severity of the existing breach or the potential environmental impact.

### 4.2 High priority cases

- Works with the potential to cause serious irreparable harm, (for example unauthorised works to a Listed Building, demolition of buildings in a Conservation Area, works to a protected tree, deposit of waste on an environmentally sensitive site), and where the harm is likely to be reduced by immediate action.
- Non-compliance with planning permissions on construction sites, in particular where prior to commencement conditions have not been discharged.

### 4.3 Medium priority cases

- Ongoing breaches of an effective Enforcement or other formal Notice
- New complaints of serious harm to the amenities of a neighbourhood, for example unauthorised development in a Conservation Area or inert waste crushing / screening activity.

### 4.4 Low priority cases

- An ongoing investigation where little or no harm has been identified or where harm is easily reparable.
- All other new complaints, for example householder development involving an outbuilding or fence/wall, and certain breaches of planning conditions where development is not in progress

The above is not intended to be a definitive list but is used to give examples of how the Council may prioritise cases. The Council considers each case on its facts and will set the priority in individual cases based on its individual circumstances.

4.5 **Enforcement Service Standard – Initial site Visit** (where considered necessary. If all relevant information has already been provided by another source such as the planning officer or conservation officer for an initial assessment to be made, an initial site visit may not be necessary)

**1. High priority cases** – within one working day of receipt of the complaint.  
If a very serious breach of planning control is established which is likely to cause additional harm to the locality if left then action will be commenced immediately

**2. Medium priority cases** – within 5 working days

**3. Low priority cases** – A site visit will be made within 10 working days

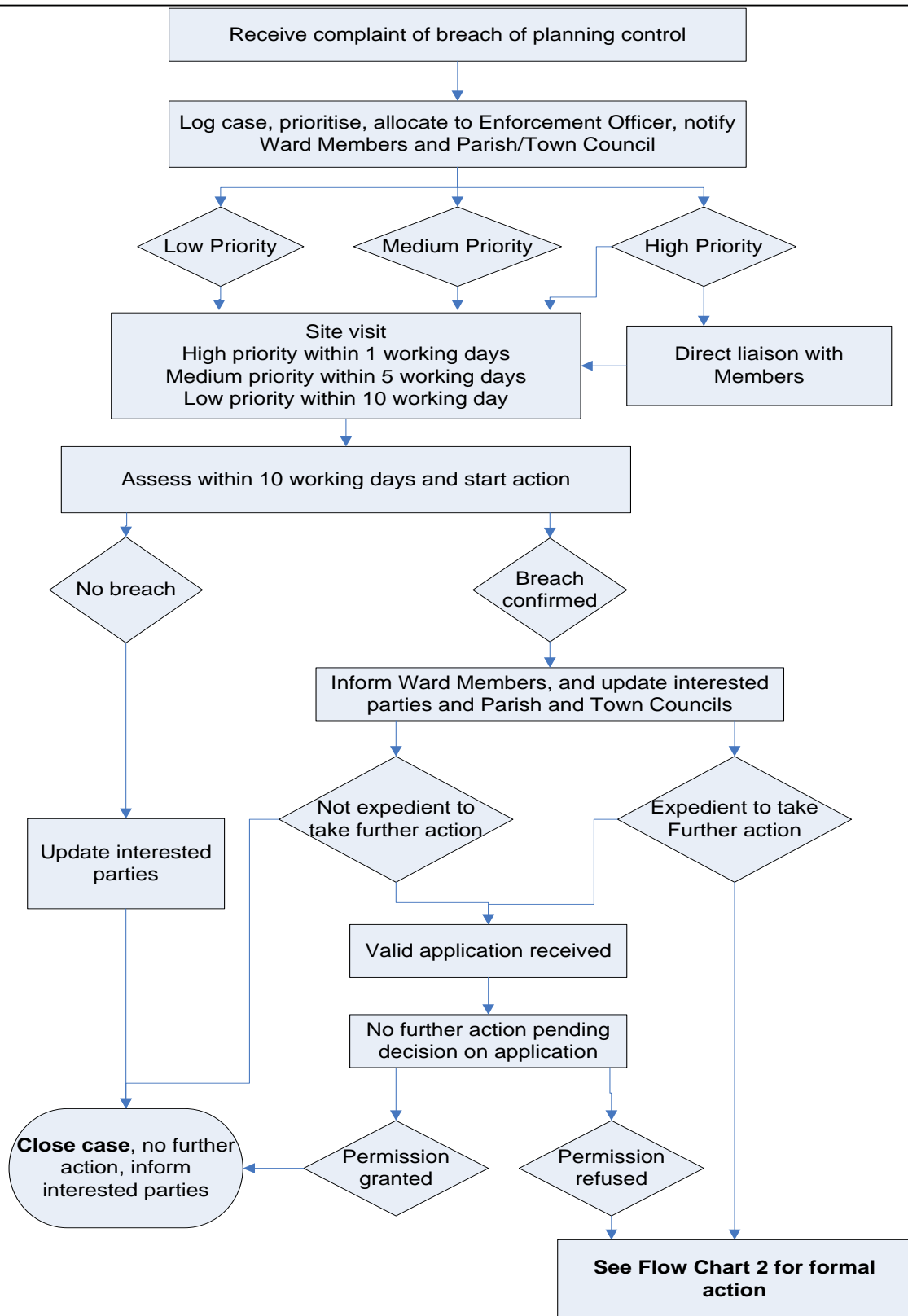
### 4.6 **Enforcement Service Standard - Planning Assessment**

In all cases within 10 working days of receipt of a complaint an initial assessment of the case will be made. This may conclude that there is clearly no breach of planning control. Alternatively the evidence may indicate that:

- A minor breach has occurred that requires the submission of a planning application.

- That the owner/developer has been seen or identified and there are reasonable grounds to consider that the non-compliance can be resolved using negotiations.
- That the owner/developer has not been identified and further enquiries are needed
- That urgent formal action (e.g. a temporary stop notice or an injunction) should be taken in order to prevent any further irreparable harm to the amenity of the area

## Flow Chart 1 – Planning Enforcement Process



## 5. The investigation of alleged breaches of planning control.

### 5.1 **Enforcement Service Standard - Initial timescale**

- All complaints of a potential breach of planning control are registered on the computer system with a unique reference number within 3 working days.
- All complainants are provided with an email\* acknowledgement within 3 working days of receipt. The acknowledgment sets out the address of the alleged contravention and the details of the alleged breach. *\*Where no email address is available then the acknowledgement is by phone.*

### 5.2 **Enforcement Service Standard - Ward Member & Parish/Town Council Notification**

The relevant Ward Councillor(s) and the Clerk to the relevant Parish/Town Council is provided by email with the following in all re-active investigation cases received.

- **Notification of receipt of complaint and opening a case:** Within 2 working days of receipt a notification letter is sent by e-mail that has the following:
  - The address of the alleged breach
  - The type/brief description of the alleged breach
  - The unique computer generated file reference number for the case
  - The name and contact details of the Enforcement Officer who is to carry out the investigation.
- **Notification of breach requiring investigation:** Within 2 working days of the conclusion that a breach has been established and that further negotiations, and/or enquiries need to be made, a notification letter is sent by email which gives the address of the breach and confirms that there is a breach of planning control that requires investigation.
- **Notification of decision to close the investigation case:** Within 2 working days of the decision taken by the Appeals & Enforcement Team Leader a notification letter is sent by email. The letter gives the address of the initial complaint, the case file reference and the reason why the case file has been closed, for example the breach has been resolved, or there is no breach.

### 5.3 **Enforcement Service Standard - Contact with the alleged contravener**

- Where an inspection onto the land/premises or property is required then the Enforcement Officer will normally make contact with the occupier, introduce himself or herself and explain the purpose of the visit. If the occupier cannot be reached, the officer's contact details will be left at the site entrance, requesting a call back.
- Within 10 working days of the first site visit the Enforcement Officer will normally be in a position to clarify whether or not there has been a breach of planning control, and if there has been a breach, explain the options available to resolve matters.
- Throughout the investigation the contact with the contravener will be carried out in a professional manner, either by phone, email, letter or on site. Where necessary there will be liaison with other specialists within CBC or other external bodies or organisations, such as the Environment Agency, local Wildlife Trust, etc., to resolve the breach.
- If the negotiations are not successful within a reasonable time period, then the possibility of taking formal enforcement action will be considered and this will be made known to the contravener.
- Within 2 working days of the closure of the investigation case the alleged contravener will be informed of the reason for the outcome, either by email or letter.

#### 5.4 **Enforcement Service Standard: Contact with the complainant(s)**

- Within 21 working days of receipt of the complaint the allocated Enforcement Officer will advise each complainant of the outcome of the Case Assessment.
- If the case requires negotiations then any complainant can contact the allocated Enforcement Officer by phone or email for up-dates
- All complainants are made aware by email or phone when a formal enforcement notice or similar has been served on the contravener by the Planning Authority.
- All complainants are notified by letter/email when the contravener has submitted an appeal to the Planning Inspectorate following the service of an enforcement notice
- Within 2 working days of the closure of the investigation case each complainant will be informed of the reason for the outcome, either by email or letter.

### **Types of Investigation Outcomes**

#### 5.5 **No material breach**

- The scale and or location of the works fall within the amount of development or change of use that can be carried out without planning permission. The exact details of what is 'permitted development' are set out by Central Government in the Town and Country Planning (General Permitted Development) Order 1995) and subsequent amendments.
- There is no development – *For example a moveable slide or an inflatable paddling pool is placed in a rear garden of a house.*
- It is not a planning matter – for example land boundary dispute, highway works.

#### 5.6 **Factors that influence the time taken to resolve an identified breach**

- The nature of the alleged breach
- The extent of investigations that need to be carried out
- The harm which the Council considers is being caused
- The resources that are available to the Council

#### 5.7 **It may not be expedient to take any action when:**

- The breach is minor and the harm it causes is not significant. It is likely in these circumstances that formal action would not be in the public interest, but the breach may be regularised if a planning application is submitted and granted.

***Please note: The decision to progress taking action against a breach of planning control should not be solely on the grounds that the contravener has failed to submit a retrospective planning application. In normal circumstances it is not a criminal offence to carry out development/change of use without planning permission.***

- 5.8 **Suggested Recommendation:** Within current national legislation all Planning Authorities are able to charge fees to determine a planning application, to provide pre-application advice and for the regular monitoring of mineral and landfill waste type developments in their area. To achieve some degree of fairness it is hoped that in the near future a national penalty fee will be able to be imposed for all those identified as carrying out development/change of use without planning approval who fail, when requested to make a retrospective planning application or refuse/fail to make an appeal against an Enforcement Notice on the ground that planning permission should be granted (a ground (a) appeal).

## Planning Investigation Cases Received

5.9 In a twelve month period the total number of new complaint case files opened is approximately 600

The major type of cases handled is usually as follows:

|  |   |     |
|--|---|-----|
| • New building works (extensions, sheds, fences) | = | 36% |
| • Changes of use (land, buildings)               | = | 25% |
| • Non-compliance with approved plans/permissions | = | 26% |
| • Display of advertisements                      | = | 7%  |
| • Untidy land/premises                           | = | 2%  |
| • <u>Mineral &amp; Waste issues</u>              | = | 2%  |
| • Miscellaneous                                  | = | 2%  |

5.10 **Negotiations** – Wherever possible we will try to resolve the breach through negotiation if a planning application is unlikely to be successful. Where this fails, and it is in the public interest, formal legal action under the provisions contained within the Town & Country Planning legislation will be taken in liaison with CBC legal services provider.

## Planning Enforcement – Formal Action

5.11 In the same twelve month period the total number of cases that are the subject of formal legal enforcement action = 22 (less than 4% of annual cases received). The majority of these involved the serving of an Enforcement Notice.

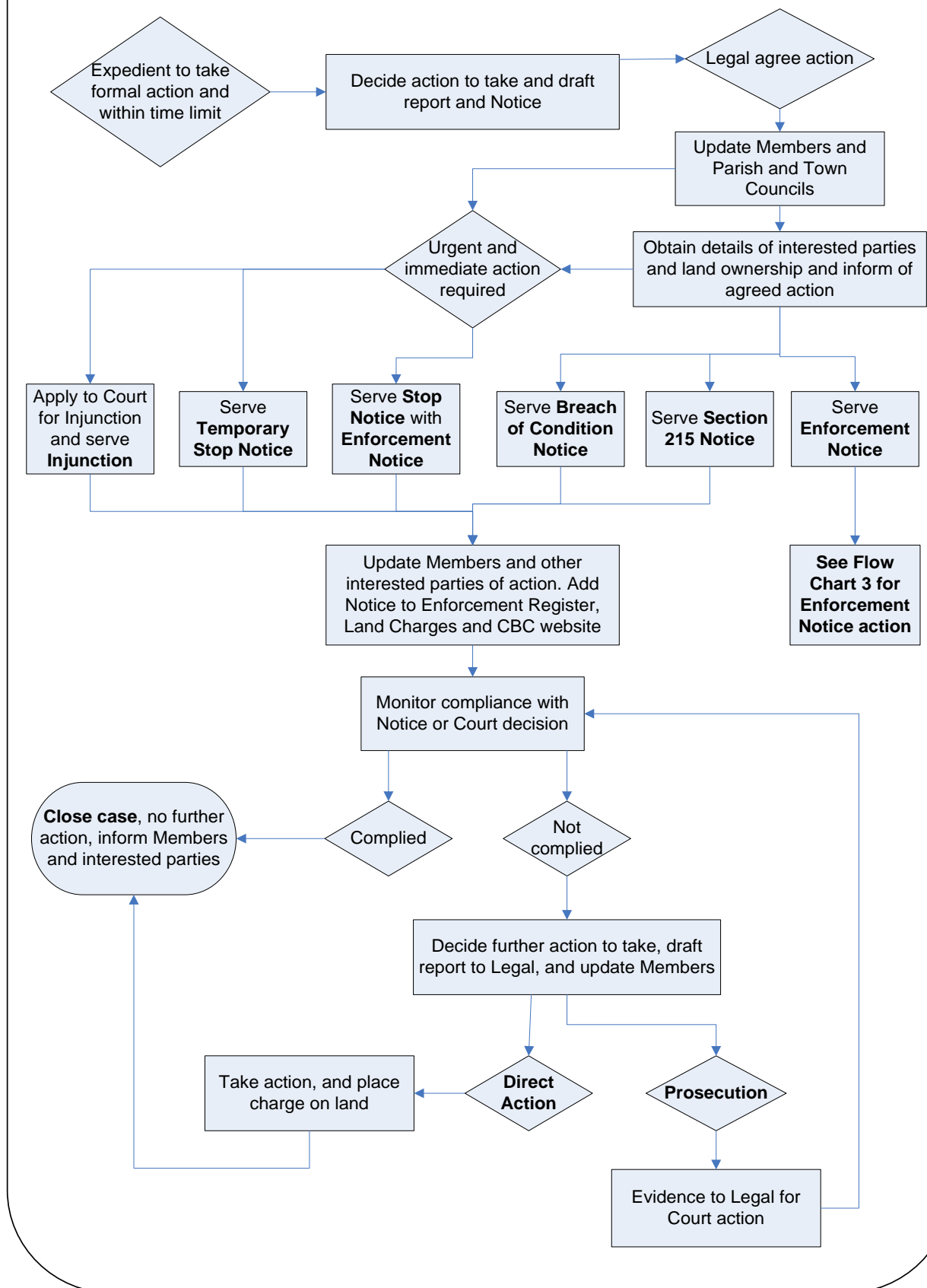
## Taking Formal Enforcement Action

5.12 Planning enforcement functions have been delegated to officers so that officers can make decisions on behalf of the Council without reference to Committee. When formal enforcement action is proposed then this is subject to a confidential Officer report for approval by the Planning Enforcement Team Leader, or the Minerals & Waste Team Leader (where applicable) prior to consultation with CBC legal services provider.

5.13 The level of action carried out by the Council has to be commensurate with the planning breach identified or in certain circumstances the potential harm likely to be caused by the breach of planning control. The more serious the breach and higher level of harm, the higher the level of intervention and action by the Council which means more “*resource commitment* (RC)” both financial and time needed.

- **Injunction** (High level RC due to immediate Court involvement)
- **Enforcement Notice with Stop Notice** (High level RC due to potential high financial compensation costs)
- **Temporary Stop Notice** (Medium level RC – Notice limited to 28 day period)
- **Enforcement Notice & Listed Building Enforcement Notice** (Medium level RC)
- **Listed Building Repairs Notice** (Medium level RC)
- **Breach of Condition Notice** (Low level RC)
- **Section 215: Untidy land/condition of building Notice** (Low level RC)

Flow Chart 2 –  
Planning Enforcement Formal Action



## 6. Enforcement Powers

***Please Note: If the breach is on Council owned land or highway land which the Council is responsible for then it is for the Council's Assets Team or the Highways Team to resolve because as owner of or responsible body for the affected land there are other enforcement related powers available.***

- 6.1 When formal enforcement action is to be taken, the Council will seek to ensure that all people served with notices, including for example those with low literacy rates, or disabilities, understand what action is to be taken, and what is required by the notice.

### Expediency to take Action

- 6.2 If planning permission is considered to be unlikely to be granted for the retention of the development carried out because, for example of its detrimental impact on the neighbourhood then the Council will ask for the built development to be removed. The person(s) responsible for the breach of planning control will be made aware that formal action will be taken by the Council.
- Officers have delegated powers to issue formal notices if it is expedient, proportionate and necessary to do so having regard to the development plan and other material considerations.
  - The Council must ensure it acts reasonably, proportionately and lawfully in taking any formal action, and be sure that the steps specified in the notice and the period for compliance with each step are reasonable taking account of relevant circumstances.

### Types of Planning Enforcement Powers

#### 6.3 Planning Contravention Notice (PCN)

- A statutory request made by the Council to obtain relevant information
- A list of questions about the site, the circumstances surrounding the alleged breach and land ownership is sent to the contravener.
- It is referred to as a statutory request because it is an offence to fail to comply with the requirements of the notice within the period set for its return, or to make false or misleading statements in reply.

The quality and quantity of the information provided in the PCN will determine whether or not there is reasonable justification for formal Planning enforcement action to be taken.

#### 6.4 Section 16 Local Government (Miscellaneous Provisions) Act 1976 and Section 330 Town and Country Planning Act 1990

- A statutory request primarily intended to establish information about the ownership and other interests in the land/property/premises where the alleged breach has taken place.
- It is referred to as a statutory request because it is an offence to fail to comply with the requirements of the notice within the period set for its return, or to make false or misleading statements in reply.

## 6.5 Planning Enforcement Order

- The Localism Act 2014 has introduced the power for Local Planning Authorities to apply to the Magistrate's Court for a Planning Enforcement Order.
- A Planning Enforcement Order may be used if the Council discovers a breach of planning control that has been concealed from the Council.
- If the Order is made by the Court the Council then has a further year in which to take formal action such as serving an Enforcement Notice.
- An Order is useful where an unacceptable use or development would become immune from enforcement action due to the passage of time and where the Council can prove that the use or development has been deliberately concealed.

## 6.6 Injunction

- The Council can apply to the County Court or High Court for an injunction to stop an actual or imminent breach of planning or listed building control, even when the identity of the person is unknown. If injunctive action is considered appropriate then the Council's Legal Providers will provide the necessary advice and assistance.
- It is essential that the Council is able to produce enough evidence to support the application to Court as well as prove that an injunction is necessary and proportionate.
- Monitoring the compliance with injunctions is carried out by the Planning Enforcement team. Failure to comply with an injunction is contempt of Court with potentially very serious sanctions including imprisonment.

## 6.7 Stop Notice with Enforcement Notice

- Stop Notice has to be served with an Enforcement notice
- Only applicable if considered that the continuing activity is causing irreparable and immediate significant harm
- Stop Notice takes effect three days after it is served and work must immediately stop. It remains in force even when an appeal against the Enforcement notice is lodged.
- There may be financial compensation liabilities for the Council if the enforcement notice is quashed at appeal.
- There is no right of appeal to the Secretary of State, but a judicial review can challenge the validity and propriety of our decision, and failure to comply with a Stop Notice is a criminal offence.

## 6.8 Temporary Stop Notice (TSN)

- Used to stop further activity or development immediately to safeguard the amenity of the area and prevent further irreparable harm.
- Notice does not have to be accompanied by an Enforcement Notice.
- It cannot require unauthorised works to be removed and it cannot prohibit the use of a building as a dwelling.
- A Temporary Stop Notice may be served to prohibit the unauthorised stationing of caravans used as main residences. Refer to Appendix A The Department for Communities and Local Government document 'Dealing with illegal and unauthorised encampments', or the Governments web site at: <https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>.
- The TSN takes effect for up to a maximum of 28 days only.
- There is no right of appeal to the Secretary of State but a judicial review can challenge the validity and propriety of our decision.

## 6.9 Enforcement Notice

- The Notice is served on the land owner and all other parties that have some control over the land/buildings where the Council is satisfied that there has been a serious breach of planning control that is contrary to policy and / or amenity considerations.
- One or more Notices may be served at the same time on the same site to cover different types of breaches of planning control.
- Every Notice must set out clearly the necessary steps to resolve the breach and set out a reasonable compliance period.

***Please Note: All those served an Enforcement Notice have a right of appeal to the Planning Inspectorate (PINS). The PINS appeal suspends the Notice. No further action under the Enforcement Notice can be taken by the Planning Authority until the outcome of the appeal is known. The time taken for the Planning Inspectorate to determine an appeal is outside the control of the Council***

## 6.10 Enforcement Notice appeal procedure

- All interested parties, including Ward Councillors and the clerk to the respective Parish/Town Council are notified of the appeal and informed by letter of how they can make representations to the Planning Inspectorate.(PINS)
- Appeals may be determined by way of an exchange of written representations, a hearing or public inquiry before a Planning Inspector.
- Irrespective of the procedure chosen by PINS, an enforcement appeal is likely to take a minimum of 20 weeks to determine and is outside the control of the Council.
- The outcome may be to quash the Enforcement Notice, grant planning permission for what is alleged in the Notice, dismiss the appeal, or dismiss the appeal but make revisions to the Enforcement Notice.
- If the appeal is dismissed, new periods of time to comply with the Notice may apply. The compliance period for the Notice starts from the date of the appeal decision letter from PINS.

***Please Note: It is a criminal offence not to comply with the requirements of an enforcement notice within the stated compliance period/s.***

## 6.11 Breach of Condition Notice (BCN)

- This is served on the land owner and the party considered responsible for the breach. It is used when there is a non compliance with one or more specific conditions on a specific planning permission decision notice.
- In the first instance The Council would normally negotiate to try to secure compliance with the condition
- The Notice must set out clearly which condition on which permission has not been complied with, and set out the works required to be carried out to address the breach.
- There is no right of appeal to the Secretary of State against a Breach of Condition Notice. The Council will use this procedure in preference to the service of Enforcement Notices where appropriate.

***Please Note: The compliance requirement of a BCN remains applicable at all times after the date of compliance unless the BCN is withdrawn or superseded by a new permission/condition.***

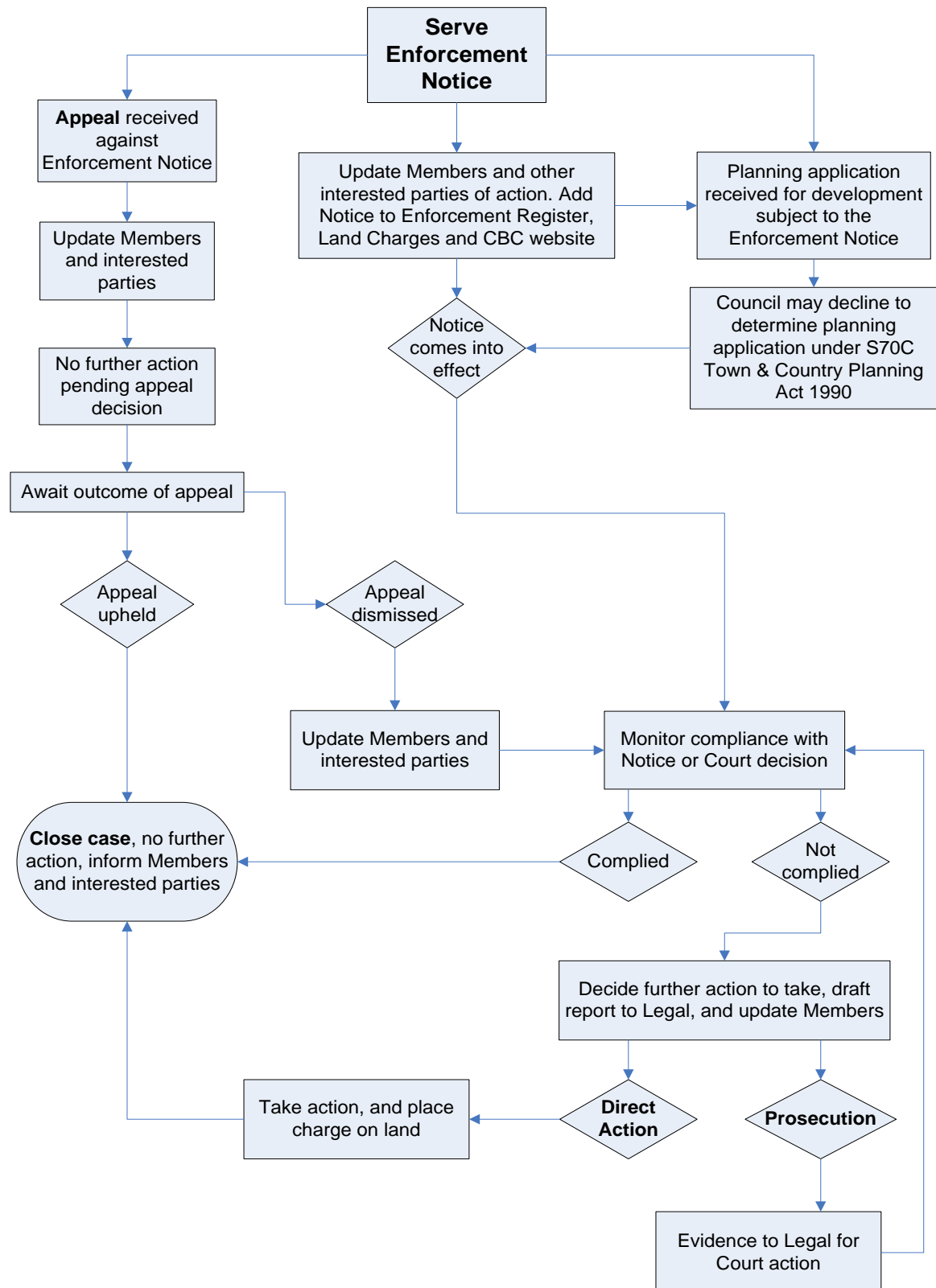
***It is a criminal offence to fail to comply with a Breach of Condition Notice within the specified time period/s.***

## **Public Accountability of the Planning Enforcement Powers**

6.12 To ensure that all Members of the Council are kept regularly aware of the instances where Planning Enforcement or the Minerals & Waste Planning authority has had reasonable grounds for taking formal enforcement action under the Town & Country Planning legislation a summary table of the 'live' cases is included as a standing item on the Agenda of each Development Management Committee. The information provided for each of the sites includes:

- A description of the breach of planning control stated on the Notice
- The relevant dates of service, compliance period on the relevant type of Notice served
- The date when an appeal was made to the Planning Inspectorate(PINS) if applicable
- Whether the Notice has been complied with
- Commentary box to inform Members and the public of the latest position at the site

**Flow Chart 3 –  
Planning Enforcement Formal Action for Enforcement Notice**



## 7 Non Compliance with a formal Notice

***Please Note: Non compliance with the requirements of an Enforcement Notice or a Breach of Condition Notice after the compliance period has expired is a criminal offence.***

- 7.1 If the Notice has not been complied with a report will be prepared by Planning Enforcement and submitted to the Council's Legal Services provider for consideration of commencing prosecution proceedings, and the persons responsible will be informed of this action. In such cases external circumstances will be taken into consideration that may affect compliance with a Notice.

### Prosecution

- 7.2 The Council, with the advice and assistance of the Council's Legal Services provider, will apply two tests in cases when considering whether to prosecute a criminal offence e.g. failure to comply with an Enforcement Notice, namely: -
- **Evidential test.** The Council will not start a prosecution unless there is sufficient, admissible and reliable evidence that the offence has been committed, and that there is a reasonable prospect of conviction.
  - **Public interest test.** The Council will only bring a prosecution where this is in the public interest.

The factors taken into account in deciding whether these tests are met are the same as the Code of Crown Prosecutors. The Code also covers how the Council decides what charges it will lay against a contravener, any out of court disposal options like a caution and when the Council reviews or will reconsider its decision to prosecute.

- 7.3 Court proceedings can take a considerable time, and further action may still be required to seek compliance with a Notice. A prosecution may be the Council's last resort, as the Council aims to resolve the breach of planning control and the harm this has caused to the neighbourhood, and not just to seek to punish those responsible for the breach of control.

***Please note: Often there can be significant financial benefits obtained by the contravener in association with the continued non-compliance with a Notice. The Council will always consider taking action through the courts under the Proceeds of Crime Act legislation (POCA) to collect this financial gain in addition to planning prosecution action.***

### Direct Action

- 7.4 We do have the power, in special circumstances and as a last resort, to ensure a formal notice is complied with by carrying out the required steps ourselves in default of the owner or occupier's action. We would consider direct action for example where a Section 215 (untidy land) Notice has not been complied with. We will seek to recover costs incurred from the owner.

***Please note: Where the Council cannot immediately recover costs we will register a charge on the property/land with the Land Registry so that the costs are obtained back when there is a change of ownership of the property/land.***

## **Planning Enforcement Register**

- 7.5 When formal enforcement action has been taken, (for example serving an Enforcement Notice), the details are entered into the Planning Enforcement Register by site address and available for public inspection on the Councils website at <http://www.centralbedfordshire.gov.uk/planning/enforcement>. The public inspection of enforcement notices issued in connection with minerals and waste uses can be arranged by contacting the Minerals and Waste Team (See paragraph 10.5).

## 8 Monitoring Planning Conditions and Planning Obligations

### Conditions on Planning Permissions

8.1 Planning permission is usually granted subject to certain conditions. There are three types of conditions:

- **Pre Commencement conditions** – These require that details are submitted or action is taken before any development takes place.
- Conditions to be discharged during the implementation phase:
- Conditions related to the built development or change of use

#### 8.2 Pre commencement conditions

- These are set out **in bold type** on the permission decision notice
- Require action or details to be submitted by the developer for approval before the development commences.
- Failure to comply with this type of condition may invalidate the planning permission and/or lead to enforcement action.
- A Temporary Stop notice (TSN) may be served to ensure that no further work takes place until requested details of materials for example are submitted and approved by the Planning authority.

8.3 Recent case law has sought to distinguish between conditions requiring no work to take place until certain actions have taken place or details submitted, and conditions which require details to be submitted before development commences. The former are true pre-development conditions. Case law will continue to influence our interpretation of pre-commencement conditions.

#### 8.4 Conditions that require to be discharged during the implementation phase

- It is the developer's responsibility to ensure that all work progresses in accordance with approved plans and details. For example where the approval of external brick/tiles is required by condition, or the details of landscaping need to be submitted that this is done at the correct time so the relevant condition can be discharged.
- When it is brought to the attention of the Council that these types of conditions have not been discharged then an investigation case file will be opened and the developer contacted.
- If within a reasonable time period (usually 4 weeks) the requested details have not been submitted then formal action may be taken either by the service of a Breach of condition Notice or Enforcement notice.
- Once the developer is made aware of the non compliance then he will be advised that any further work related to the breach will be "*at their own risk.*"

#### 8.5 Conditions related to the approved built development or change of use.

- An investigation into the non-compliance of these types of conditions will only be carried out as a result of a complaint received where some type of harm or

nuisance is being caused. For example hours of operation are not in accordance with the hours permitted by a condition to the planning permission.

- The alleged breach of planning control may lead to either a Breach of Condition Notice or Enforcement Notice being served. The contravener may also make a planning application to remove or vary the restriction.

## **Residential: Removal of Permitted Development Provisions**

- 8.6 Where the residential Permitted Development (PD) provisions for extensions and/or the placing of structures within the residential curtilage of houses has been removed by condition on a planning permission any complaints made by those directly affected by the work carried out which has not been the subject of a planning application in the normal manner.

## **Mineral Permissions: site monitoring**

- 8.7 Conditions on planning permissions for mineral workings are monitored pro-actively by the Council's Minerals and Waste Planning Authority. Mineral extraction and landfill operations are large scale developments which, by their nature, have the potential to cause significant harm to the amenity of the local area, often over a period of many years or even decades. It is therefore essential that these developments are regularly and proactively monitored through from the implementation to the final land restoration phase.
- 8.8 On all active mineral sites the monitoring is carried out with regard to the compliance with the conditions on the relevant planning permission(s) for the particular site and operator. Two types of report are prepared:
- **Annual audit report:** Comprehensive report with the precise wording of each condition included, and checked at a pre-arranged site inspection with the operator
  - **Focussed report:** A summary of the relevant permission with wherever possible a Yes/No compliance box completed.
- 8.9 Associated with both types of reports is a reminder box to enable the Planning Authority to remind the operator of the need to submit certain information at some forthcoming date to comply with a specific condition.
- 8.10 Following the site inspection the Monitoring Report is sent to the operator and where non compliances have been identified assists in discussions to resolve the breach and so reducing the likelihood of the need to serve a formal Breach of condition Notice.

## **National Fee Charge Monitoring**

- 8.11 Since 2006 all mineral operators or developers in England who are considered to be carrying out a landfill type operation are obliged by legislation to pay a nationally set fee for each site monitoring inspection carried out by the Minerals & Waste Planning Authority. An active site may require four visits each year to ensure that the identified non compliances have been resolved by the time of the next visit. The annual finance generated from this pro-active enforcement work is sufficient to employ a full-time Monitoring Officer (Minerals & Waste) in the Council's Minerals and Waste Team.

## Planning Obligations

- 8.12 Planning obligations are Planning Agreements or Unilateral Undertakings that relate to large scale developments, usually new housing, and often aim to ensure that the associated infrastructure and community facilities are provided at the appropriate time.
- 8.13 **Planning Agreements** (also known as Section 106 Agreements) are agreements made between the Local Planning Authority and a developer. Unilateral undertakings are made by the developer. A unilateral undertaking like a Section 106 agreement is a legal deed where developers covenant to perform planning obligations. However, unlike Section 106 agreements they don't have to be entered into by the local authority. Both Unilateral undertakings and Section 106 Agreements aim to make proposed development acceptable and accord with planning policies. Such obligations may restrict development or use of land, may require certain operations to be carried out, or may require payments to be made to the Authority.
- 8.14 Monitoring Officers monitor the planning obligations to ensure that operations are carried out and payments made within the required timescales.

### Breach of a Planning Obligation

- 8.15 Planning obligations run with the land so if the terms of an obligation are not complied with any enforcement action may be taken against persons acquiring an interest in the land. Should there be a breach of a formal obligation there are three methods of enforcement open to the Council:
- The Council can apply to the Court for an **Injunction**. The Council must prepare a high level of evidence to convince a judge that an injunction is necessary. Failure to comply with an injunction is contempt of Court and can lead to an unlimited fine and/or imprisonment.
  - We can **enter the land to complete works** and will seek to recover costs where certain operations or works have not been carried out, but must give at least 21 days notice of our intention.
  - We may **place a charge on the land** in order to assist the Council in proceedings to recover costs incurred.

## 9 Enforcement Action for Listed Buildings, Protected Trees, Untidy Land and the display of advertisements

### Listed Buildings

- 9.1 The Council attaches particular importance to ensuring that any alterations to listed buildings are properly monitored. There are within the CBC area a total of over 1500 listed buildings
- The statutory provisions for the preservation of buildings of special architectural or historic interest are contained in the Listed Buildings and Conservation Areas legislation.
  - It is a criminal offence under the legislation to carry out unauthorised works to a listed building which could affect its character.
  - The owner of a listed building or those who have an interest in the property or who have carried out the works may be prosecuted by the Council irrespective of whether consent is later obtained retrospectively or the unauthorised works later made satisfactory.
  - A person found guilty of an offence may be liable to a substantial fine, and/or a term of imprisonment.
  - There is no time limit upon the Council to pursue Listed Building Enforcement Action.
  - A Listed Building Enforcement Notice or Repairs Notice may also be served requiring remedial works to the building within a certain time scale. There is a right of appeal to the Planning Inspectorate.
  - Failure to comply with a Listed Building Enforcement Notice is an offence, which is liable to a substantial fine on summary conviction.

### Protected Trees

- 9.2 Under the Town and Country Planning legislation the local planning authority has the right to make provision for the preservation of trees in their area by making Tree Preservation Orders.
- Any person that carries out unauthorized works to a protected trees (TPO) without the appropriate prior approval commits a criminal offence, and is liable, if found guilty on summary conviction, to a fine.
  - In addition to the criminal penalties for the felling or other unauthorised works to protected trees, the landowner is also under a duty to replace a protected tree that has been removed. The Council may serve a **Tree Replacement Notice** to require a suitable replacement tree to be planted or the Council may do the work and recover costs from the landowner.
  - **Trees in Conservation Areas** are also afforded a degree of protection under the planning legislation because trees are often considered to make a significant positive contribution to the visual amenity of a Conservation Area. Unauthorised work to and/or removal of trees without prior notification constitutes an offence. However the Council will exercise discretion in deciding whether or not it is appropriate to pursue prosecution.

## **Section 215 Notice: Untidy land and/or buildings**

Refer to Government Best Practice Guidance at:

<https://www.gov.uk/government/publications/town-and-country-planning-act-1990-section-215-best-practice-guidance>

- 9.3 If the visual appearance of the private land or buildings is considered to have a seriously detrimental impact on the amenity of an area then the use of Section 215 Notice may be appropriate.
- A warning letter is first sent to the land owner advising that the current condition of the site is unacceptable and needs immediate attention.
  - A period of negotiation may be reasonable if the land owner provides a positive response and some actions are carried out to address the key issues.
  - The Section 215 Notice, if served, requires the owners and occupiers of the land to take certain steps as specified, related to the characteristics of the site to secure an improvement in its appearance within a given time scale.
  - The recipient(s) have a right to appeal to a magistrates' court.
  - Failure to comply with the notice is an offence and the Council has on certain occasions taken prosecution action in the Magistrates Court to penalize those responsible for the non compliance.
  - There are no time limits over when the Section 215 Notice can be served

## **Advertisements**

- 9.4 The display of advertisements is controlled under the Town and Country Planning (Control of Advertisements) Regulations 2010. An application to display an advertisement is decided in the interests of amenity and public safety. The rules are complicated and seek to control amongst other things the height, size, and illumination of advertisements.
- It is an offence to display an advertisement without the consent required
  - It is open to the Council to take a prosecution in the Magistrates Court for an offence under the Advertisement Regulations. The continued display of an advertisement without consent, or after consent has been refused, may well result in prosecution. On conviction a fine may be imposed by the Court with an additional daily fine on conviction of a continuing offence.
- 9.5 Advertisements are divided into three main groups: -
- Advertisements with 'express consent' – not controlled by the Council.
  - Advertisements with 'deemed consent' - the planning authority's consent is not required provided the advertisement meets certain criteria.
  - Advertisements which require being the subject of advertisement consent from the local planning authority.

### **Advertisements placed within the public highway**

- 9.6 Any complaints received about obstructions or presence of advertisements displayed on public highway verges and pavements is a matter for the CBC Highways Section to resolve. Their contact details are via the CBC website: *Transport, roads, parking* section.
- 9.7 **Free standing Placard and poster displays**
- The Council has the power to remove or obliterate any placard or poster displayed illegally.

- The Council is required to give at least two days notice in writing, or other appropriate format, to anyone we can identify as being responsible for displaying unauthorised placards or posters
- The Council also has the power to remove advertisement display structures providing it has first served a Removal Notice.

## 10 Conclusion

- 10.1 It is the Council's policy to provide a reliable, efficient and good quality corporate planning enforcement service, maximising the use of the resources available, to protect the local environment and the level of amenity enjoyed by local residents and local businesses.

***Please Note: It is essential that Planning enforcement resources are not used to handle non-planning issues.***

*For example, the investigation of the display of property sale boards following a complaint solely made by a business competitor. This is because not only would there be an adverse impact upon the efficiency of the legitimate planning enforcement service to the local community, but because everyone has a right to make a formal complaint if it is considered that the actions taken by Council are unreasonable or unjustified. The Council may be found guilty of maladministration because in these circumstances the actions taken to require the removal of the property boards may be considered to be not in the public interest but in the specific interests of a particular business competitor.*

- 10.2 Planning is a LAND USE discipline and Planning Enforcement is essentially involved in the investigation of alleged breaches of planning control and their resolution by negotiation and co-operation whenever possible. While land may have an approved type of use and activities, Planning Enforcement powers cannot be used to address the behaviour of the parties and any nuisance that may cause. Nuisance caused by the behaviour of the occupier should be addressed to the Council's Anti Social Behaviour team at: <http://www.centralbedfordshire.gov.uk/community-safety/anti-social/report.aspx>
- 10.3 **The Enforcement Service standard** is to aim to resolve 80% of cases received within a period of 6 months. In the April-June 2016 period the figure was 78%.
- 10.4 In general **over 95%** of investigation cases are closed/resolved without the need for formal enforcement action.

***Please Note: In the annual period from January to the end of December 2015 more than 500 case files were opened. In the same period formal enforcement action was taken with regard to a total of 22 sites. This represents about 4% of the number of cases opened in the same period.***

### **Require further information about the Planning Enforcement Service?**

- 10.5 For planning enforcement procedures associated with the investigation of all types (other than mineral and waste matters) of re-active planning non-compliance complaints e-mail [planning.enforcement@centralbedfordshire.gov.uk](mailto:planning.enforcement@centralbedfordshire.gov.uk)

For Minerals & waste issues associated with the investigation of re-active planning non-compliance complaints and the pro-active monitoring of compliance with planning conditions at all minerals and waste sites e-mail [mwapplications@centralbedfordshire.gov.uk](mailto:mwapplications@centralbedfordshire.gov.uk)



Department for  
Communities and  
Local Government

# Dealing with illegal and unauthorised encampments

A summary of available powers

© Crown copyright, 2013

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

If you have any enquiries regarding this document/publication, email [contactus@communities.gov.uk](mailto:contactus@communities.gov.uk) or write to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

August 2013

ISBN: 978-1-4098-3990-3

# **Dealing with illegal and unauthorised encampments: a summary of available powers**

**This guide sets out the robust powers councils and landowners now have to clamp down quickly on illegal and unauthorised encampments.**

As part of the Government's commitment to protecting the nation's green spaces, these powers will help protect Green Belt land and the countryside from illegal encampments. In addition to the powers which are available to councils to remove unauthorised traveller sites, protest camps and squatters from both public and private land, new Temporary Stop Notices now give councils powers to tackle unauthorised caravans, backed up with potentially unlimited fines. With the powers set out in this guide available to them, councils should be ready to take swift enforcement action to tackle rogue encampments and sites.

Recent experience has shown us the problems that can be caused for communities by the illegal occupation of land. It is often thought that local authorities and other enforcement bodies have limited powers available to tackle illegal and unauthorised encampments and the nuisance that they can cause. In fact there are extensive powers which are summarised below.

Whilst there is a clear leadership role for local authorities in tackling illegal and unauthorised encampments, they will some times need to work collaboratively with others, such as the police or the Highways Agency, depending on where the most appropriate powers sit.

This summary of powers is primarily aimed at local authorities but also intended to be helpful to land owners and others involved with illegal and unauthorised encampments.

## **Being prepared and acting swiftly: Questions local authorities will want to consider:**

- Is there land particularly vulnerable to unlawful occupation/trespass?
  - What is the status of that land? Who is the landowner?
  - Do any special rules apply to that land (e.g. byelaws, statutory schemes of management, etc) and, if so, are any of those rules relevant to the occupation/trespass activity?
  - Has a process been established for the local authority to be notified about any unauthorised encampments?
- If the police are notified of unauthorised encampments on local authority land, do they know who in the local authority should be notified?
- If the power of persuasion by local authority officers (wardens/park officers/enforcement officers) does not result in people leaving the land/taking down tents, is there a clear decision making process, including liaison with local police forces, on how to approach unauthorised encampments? At what level of the organisation will that decision be made? How will that decision-maker be notified?

**To plan and respond effectively, local authorities should consider:**

- Working with local police to identify vulnerable sites.
- Working with landowners to physically secure vulnerable sites where possible.
- Preparing any necessary paperwork, such as applications for possession orders or injunctions, in advance.
- Working with private landowners to inform them of their powers in relation to unauthorised encampments, including advance preparation of any necessary paper-work.
- Developing a clear notification and decision-making process to respond to instances of unauthorised encampments.
- The prudence of applying for injunctions where intelligence suggests there may be a planned encampment and the site of the encampment might cause disruption to others.
- Working to ensure that local wardens, park officers or enforcement officers are aware of who they should notify in the event of unauthorised encampments.
- Working to ensure that local wardens or park officers are aware of the locations of authorised campsites or other alternatives.
- Working with the police to identify sites where protests could be directed / permitted.

**A summary of the powers available to local authorities and the police to tackle unauthorised encampments is set out below:**

| Local Authority Powers   |   |
|--|---|
| Power  | When can the power be applied?  |
| <b>Temporary Stop Notice</b>                                     | <p><b>Section 171E of the Town and Country Planning Act 1990</b> stops any activity that breaches planning control for a period of 28 days. This allows the local planning authority time to decide whether further enforcement action, such as issuing an enforcement notice, possibly with a stop notice, should be taken. Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (<b>section 171G</b>).</p> <p>A temporary stop notice differs from a stop notice (see below) in that it does not have to wait for an enforcement notice to be issued and the effect of the temporary stop notice is immediate.</p> <p>The Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005 were revoked on 4 May 2013. The revocation removes a previous restriction on the use of Temporary Stop Notices; this allows Local Planning Authorities to decide if enforcement action against a caravan, used as a main residence, is necessary and proportionate in the circumstances.</p> |
| <b>Injunctions to protect land from unauthorised encampments</b> | <p>If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities could consider applying to the courts for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area.</p>  |

|                                   |   |
|-----------------------------------|---|
|                                   | <p>The local authority will be required to point to an underlying claim on which the injunction application is based. The following are examples of possible bases:</p> <ol style="list-style-type: none"> <li>1. the relief from trespass or public nuisance;</li> <li>2. the prevention of obstruction of the highway (see “Public Highway” section);</li> <li>3. the prevention of a breach of planning control (<b>section 187B, Town and Country Planning Act 1990</b>); and</li> <li>4. the prevention of environmental damage.</li> </ol>  |
| <b>Licensing of caravan sites</b> | <p><b>The Caravan and Control of Development Act 1960</b> prohibits the use of land as a caravan site unless the occupier holds a site licence issued by the local authority. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including touring sites and single sites. However, it does not include sites where caravans are kept for storage only (driveways, retailers, storage parks) or where a caravan is used as additional accommodation for an existing dwelling. Violation of licensing terms brings a £100 fine for a first offence, and a £250 fine for any subsequent offence.</p>  |
| <b>Tent site licence</b>          | <p><b>Section 269 of the Public Health Act 1936</b> gives the local authority powers to control the use of movable dwellings and to license the use of land as a site for such as a dwelling. If the land is to be used for more than 28 days in total in any calendar year, planning permission must be obtained. A site which is used for more than 42 days consecutively or 60 days in total in any consecutive 12 months, must have a site licence for the area concerned. The local authority may also decide to license tented areas on existing sites which operate within the 28 day planning allowance period. Violation of licensing terms brings a £2 fine per day.</p>  |
| <b>Possession Orders</b>          | <p>A possession order under <b>Part 55 of the Civil Procedure Rules</b> can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property. A claim can be issued in the High Court in exceptional circumstances where there is a risk of public disturbance and harm to persons or property that requires immediate determination. Local authorities should also be prepared to advise private landowners about their rights to recover land from trespassers through the courts or using common law powers. It is also possible that local authorities may be called upon to assist other Government bodies such as the Highways Agency.</p> <p>The “ordinary” possession order may be used regardless of whether the property is a building or open land, and regardless of the type of squatter or trespasser. The landlord may combine the application for the possession order with suing the squatter for damages and/or an occupation rent for the period of squatting as well as the court fees. A possession order may be secured quickly against trespassers (a</p> |

|  |  |
|--|--|
|  | <p>minimum of 2 days' notice before a hearing can take place if the property is non-residential, or 5 days for residential property), but not as quickly as an interim possession order, and is not backed up by criminal sanctions, unlike the interim possession order (see below).</p>  |
| <b>Interim Possession Order</b>                        | <p>If trespassers have occupied premises (rather than open land), a local authority or private landowner could also consider applying (under <b>Section III of Civil Procedure Rules Part 55</b>) for an interim possession order, an accelerated process for regaining possession of property. Once the court has granted such an order and it has been served, trespassers who fail to leave within 24 hours of service of the order or return to the premises within the currency of the order are guilty of an offence under <b>section 76 of the Criminal Justice and Public Order Act 1994</b>.</p> <p>The interim possession order has the obvious advantages of speed and being backed up by the criminal law. It is, however, not a final order, and there is a return date at which the court will decide whether to make the order final. If the court decides that the interim order was not justified, the landlord may have to pay damages. The interim possession order is also more restricted in that it may only be used where the property is or includes a building, not open land, and may not be used where the landlord also wishes to claim damages and/or an occupation rent.</p>   |
| <b>Local Byelaws</b>                                   | <p><b>Section 235 of the Local Government Act 1972</b> enables the local district council or London borough council to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in a public place etc.</p> <p><b>Section 150 (2) of the Police Reform and Social Responsibility Act 2011</b> enables local authorities to attach powers of seizure and retention of any property (which could include tents and sleeping equipment) in connection with any breach of a byelaw made under <b>section 235</b> and enables the courts to order forfeiture of any such property on conviction for contravention of any byelaw. Local authorities could use this byelaw as a pre-emptive tool to prohibit encampments, if the local authority considers it has an area at risk of encampment protest. This will save having to go through costly injunctions after any encampments have been set up. Local authorities should consider this option as part of their local risk assessment and mitigation plan; as such a byelaw would still be required to go through the normal processes for amending or introducing new byelaws. Westminster City Council has already introduced such a byelaw, which came into force for a specified area around Parliament Square on 30 March 2012.</p> |
| <b>Power of local authority to direct unauthorised</b> | <p>Where people are residing in vehicles (including caravans) on land the <b>section 77 of the Criminal Justice and Public Order Act 1994</b> gives local authorities in England and Wales power to give a direction to leave the land. The power applies only to land forming part of a highway, any</p>  |

|   |  |
|---|--|
| <p><b>campers to leave land</b></p>                         | <p>other unoccupied land or occupied land on which people are residing without the consent of the occupier.</p> <p>It is an offence to fail to comply with such a direction. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (<b>section 78</b>). Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is usually recommended that the police attend such evictions in order to prevent a breach of the peace. Please note this power does not apply to other campers i.e. those sleeping under canvas.</p>  |
| <p><b>Addressing obstructions to the Public Highway</b></p> | <p>If tents are erected on the public highway, so as to constitute a "nuisance", the relevant highway authority may serve a notice requiring their removal under the <b>Highways Act 1980</b> (England and Wales only). If the recipient fails to comply, the highway authority can apply to the Court for a removal and disposal order. The key issue is the need to demonstrate that the tents etc that are deposited on the highway are causing a clear, actual obstruction (a "nuisance").</p> <p>The Highways Act provides other grounds on which highway authorities may take action in relation to protest activity on the highway.</p> <p>For example, under <b>sections 1 and 263 of the Act</b>, the freehold title of a highway maintained at public expense is vested in the highway authority. This means that, in some circumstances they could seek a possession order through the courts.</p> <p>Under <b>section 137</b>, it is the duty of the highway authority to protect the rights of the public regarding the use and enjoyment of the highway and to prevent the obstruction of the highway. This allows the authority to seek an injunction in relation to protests on the highway that restrict public use or create an obstruction.</p> <p>Normally a highway authority would take the time to initiate a dialogue with any party that is potentially causing an obstruction and would only use court procedures if it was obvious the party causing the obstruction won't back down. However, as with <b>section 149 of the Highways Act 1980</b> (Removal and disposal orders) if the object, e.g tents, was causing a danger then there is a provision for their immediate removal.</p> <p>The power won't be effective where the obstruction is temporary and formal proceedings are likely to be frustrated by the voluntary removal of the object before any court proceedings can bite. In these circumstances liaison and persuasion are the best option.</p> |

|   |   |
|---|---|
| <p><b>Planning contravention notice</b></p>                 | <p><b>Section 171C of the Town and Country Planning Act 1990</b> provides the power to serve a planning contravention notice. This may be used where it appears that there may have been a breach of planning control and the local planning authority require information about the activities on the land or to find out more about the nature of the recipient's interest in the land.</p> <p>A notice can therefore be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.</p> <p>These notices enable local planning authorities to take action quickly following complaints and may be sufficient to reach a solution to the problem without taking any further formal action. Penalty for non-compliance is a maximum £1,000 on summary conviction (<b>section 171D</b>). A second conviction for continuing non-compliance can be penalised by a daily fine. A false or misleading response to a planning contravention notice (either deliberately or recklessly) is subject to a maximum fine of £5,000.</p>  |
| <p><b>Enforcement Notice and Retrospective Planning</b></p> | <p><b>Section 172 of the Town and Country Planning Act 1990</b> is the power to issue an enforcement notice, requiring steps to be taken to remedy the breach of planning control within a given period. The steps can include demolition and restoration of a site or alterations to a building. There is a right of appeal to the Secretary of State against an enforcement notice (<b>section 174</b>). If the notice is upheld, the penalty for failure to comply is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (<b>section 179</b>).</p> <p>An enforcement notice should be written in plain English and should enable every person who receives a copy to know –</p> <ul style="list-style-type: none"> <li>• exactly what, in the local planning authority's view, constitutes the breach of planning control; and</li> <li>• what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach.</li> </ul> <p>If an enforcement notice has been issued, the local planning authority may decline to determine a retrospective planning application for development that would grant planning permission for any of the matters specified in the enforcement notice (<b>section 70C of the Town and Country Planning Act 1990 as inserted by section 123 of the Localism Act 2011</b>).</p> |
| <p><b>Stop Notice</b></p>                                   | <p><b>Section 183 of the Town and Country Planning Act 1990</b> This has the effect of quickly stopping any activity which contravenes planning control guidelines and where there are special reasons which justify doing this: for example to prevent further environmental damage or to stop the construction of an unauthorised building. A stop notice may only be served with or after an enforcement notice relating to the same activity. Penalty for non-compliance is a fine of up to £20,000 on</p>  |

|   |   |
|---|---|
|   | summary conviction or an unlimited fine on indictment ( <b>section 187</b> ).   |
| <b>Breach of Condition Notice</b>                                       | <b>Section 187A of the Town and Country Planning Act 1990</b> enables a breach of condition noticed to be served where there is a failure to comply with any condition or limitation imposed on a grant of planning permission. Penalty for non-compliance is a fine of up to £2,500 on summary conviction.   |
| <b>Powers of entry onto land</b>  | <b>Sections 196A, 196B and 196C of the Town and Country Planning Act 1990</b> provides powers of entry for authorised officers of the local planning authority for them to obtain information required for enforcement purposes. This may be without a warrant at any reasonable hour (with 24 hours' notice for a dwelling house), or with a warrant if access has been or is expected to be refused, or it is an emergency. Wilful obstruction of an authorised person is an offence: penalty is a fine of up to £1,000 on summary conviction.  |
| <b>Police Powers</b>  |   |
| <b>Power</b>  | <b>When can the power be applied?</b>   |
| <b>Power of the Police to direct unauthorised campers to leave land</b> | <p>Should trespassers refuse to adhere to a request to leave the land, <b>sections 61- 62 of Criminal Justice and Public Order Act 1994</b> gives the police discretionary powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following:</p> <ol style="list-style-type: none"> <li>1. that any of the trespassers have caused damage to land or property;</li> <li>2. that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or</li> <li>3. that the trespassers have between them six or more vehicles on the land.</li> </ol> <p>Failure to comply with the direction by leaving the land as soon as reasonably practicable is an offence. Similarly it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.</p> |
| <b>Police Powers to direct trespassers to an alternative site</b>       | Police have powers under <b>sections 62 A-E of Criminal Justice and Public Order Act 1994</b> to direct both trespassers and travellers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.  |

|   |   |
|---|---|
| <b>Offence of squatting in a residential building</b> | <p>The offence of squatting in a residential building, which comes into force on 1 September 2012, was created by <b>section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012</b>. The offence will be committed where a person is in any residential building as a trespasser, having entered as a trespasser, knows or ought to know he or she is a trespasser, and is living in the building or intends to live there for any period.</p> <p>Although the new offence does not cover squatting in non-residential buildings or on land, squatters who have broken into those premises, removed items or caused damage might be guilty of other offences such as criminal damage or burglary and should be reported to the police.</p>   |
| <b>Post site clean up powers</b>                      |   |
| <b>Power</b>  | <b>When can the power be applied?</b>   |
| <b>To act in respect of Fly-tipping</b>               | <p>Fly-tipping is the illegal deposit of waste on land that does not benefit from an appropriate environmental permit contrary to <b>section 33 of the Environmental Protection Act 1990</b> and local authorities and the Environment Agency may prosecute for the offence. There is an associated offence relating to the unlawful deposit of waste from a motor vehicle whereby the person who controls or is in a position to control the vehicle shall be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.</p> <p>Prosecution may be taken by the local authority or in more serious cases by the Environment Agency where there is evidence that a person either deposited the waste or knowingly caused or permitted the deposit.</p> <p>This power is ineffective where it is uncertain whether the waste is controlled waste under <b>Environmental Protection Act 1990</b>. Such uncertainty might arise where the waste is not considered household, commercial or industrial.</p>  |
| <b>Removal of waste from land</b>                     | <p>Local authorities are under an obligation to remove fly-tipped waste from public land, but on private land it is the responsibility of the landowner to remove the waste and dispose of it legally. Landowners are therefore often the victims of fly-tipping. Local authorities should advise landowners what local facilities are available to enable them to clear fly-tipped waste. <b>Section 59 of the Environmental Protection Act 1990</b> allows local authorities and the Environment Agency to require owners or occupiers of land to remove waste they <i>knowingly</i> caused or permitted to be deposited illegally. If the waste is not removed, the local authority or the Environment Agency can enter onto the land to clean up the waste and can charge the landowner the costs incurred.</p> <p>This power is effective where a person is still in occupation of land or where a landowner has refused to take steps to prevent fly-tipping or has allowed fly-tipping to occur (in most cases the landowner is the victim). However, it cannot be used against the offender unless they are</p> |

|   |   |
|---|---|
|   | the occupier or landowner or where there is doubt whether the deposit is an illegal deposit.  |
| <b>Power to remove any thing abandoned without lawful authority</b> | Section 6 of the <b>Refuse Disposal (Amenity) Act 1978</b> provides a general power for local authorities to remove “any thing in their area, other than a motor vehicle, [which] is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway”, provided that they have given notice to the occupier of the land and they have not objected within 15 days, in accordance with the Removal of Refuse Regulations 1967. The local authority may be entitled to recover the costs of removal from the person who deposited the articles.   |
| <b>Harm to public health</b>  | <p>Local authorities have certain duties and powers to control “statutory nuisances” pursuant to <b>sections 79 to 81 of the Environmental Protection Act 1990</b> (as amended). Various matters constitute “statutory nuisances” under this legislation. These include any premises and land that are in such a state as to be prejudicial to health or a nuisance. Something will be ‘prejudicial to health’ if it is ‘injurious or likely to cause injury to health.’ A ‘nuisance’ is unacceptable interference with the personal comfort or amenity of the nearby community.</p> <p>The statute requires local authorities to inspect their areas for statutory nuisances and to take such steps as are reasonably practicable to investigate complaints of statutory nuisance made by residents in their areas. A local authority has a duty to serve an abatement notice if it is satisfied that a statutory nuisance exists, or is likely to occur or recur. The abatement notice should generally be served on the person responsible for the statutory nuisance but can be served on the owner of the land if the person responsible (e.g. a tenant or leaseholder) cannot be found or if the nuisance has not yet occurred or recurred. If the abatement notice is not complied with, the local authority has the power to take further steps to deal with the nuisance (but it not obliged to take these steps). A local authority may abate the nuisance itself. In doing so the local authority may do whatever may be necessary in execution of the notice and may be able to recover expenses from the landowner, if necessary through a charge on the land. A local authority also has the power to take criminal proceedings against a person who fails to comply with an abatement notice if it considers that doing so is in the interests of the inhabitants in its area. If the local authority considers that the criminal procedure is inadequate (e.g. in an emergency) it has a power to seek an injunction in the High Court to deal with the statutory nuisance.</p> <p>Overall this power is effective in tackling statutory nuisance issues that may arise from illegal occupation (e.g., noise, smells, accumulation of material, fumes, dark smoke). The statutory nuisance regime cannot be used to require people who are responsible for a statutory nuisance to move from a site, even if they are occupying the site illegally.</p> |

|   |   |
|---|---|
| <p><b>Clearing of land</b></p>  | <p>The scope of works under <b>section 215 of the Town and Country Planning Act 1990</b> enables a local authority to make good the loss of public amenity. If it appears that the amenity of an area is being adversely affected by the condition of neighbouring land and buildings these powers allow local authorities to serve a notice on the owner requiring that the situation be remedied.</p>   |
| <p><b>Power to deal with accumulations of rubbish in the open air</b></p> | <p>The <b>Public Health Act 1961</b> gives local authorities powers to deal with accumulations of rubbish in the open air. In particular, section 34 of the Public Health Act creates a power for local authorities to remove rubbish on land in open air which is seriously detrimental to the amenity of the neighbourhood. For the power to be exercised a number of conditions must be met:</p> <ol style="list-style-type: none"> <li>1. There must be rubbish. "Rubbish" is defined to mean "rubble, waste paper, crockery and metal, and any other kind of refuse (including organic matter)", however "any material accumulated for, or in the course of, any business" will not fall under this definition.</li> <li>2. The rubbish must be on "land in the open air" in the local authority's area.</li> <li>3. The presence of the rubbish must be "seriously detrimental to the amenities of the neighbourhood."</li> <li>4. The local authority must have given 28 days prior notice to the owner and occupier of the land requiring the removal of the specified rubbish.</li> <li>5. The recipient of a notice has the right to serve a counter-notice stating that they will remove the rubbish themselves. If a counter-notice is served the local authority must not remove the rubbish unless the person who served the counter-notice fails to take or complete the steps in the counter-notice within a reasonable time.</li> <li>6. The recipient of a notice may appeal to the magistrates' court on the grounds that the authority should not take action under section 34 (for example, if they allege the rubbish is not seriously detrimental to the amenity of the neighbourhood) or the steps proposed in the notice are unreasonable. If an appeal is brought against the notice, the local authority must not remove the rubbish unless and until the appeal is finally determined its favour or withdrawn.</li> </ol> <p>This power could be used to deal with the accumulation of rubbish on land resulting from illegal occupation. This power does not extend to removing "material accumulated, for or in the course of, any business." Therefore, where illegal occupants are carrying on a business careful consideration will need to be given to whether the items the local authority wishes to remove fall under this exclusion.</p> <p>This power could not be used to evict the occupants from the unauthorised encampment.</p> |

|                                 |  |
|---------------------------------|--|
| <b>Power to seize a vehicle</b> | <p>Where a vehicle has been used in the commission of an offence relating to the illegal deposit of waste or other waste offences a local authority or the Environment Agency on application to a court may seize a vehicle and its contents in accordance with the provisions of the Control of Pollution (Amendment) Act 1989 and the <b>Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991</b>.</p> <p>This power is effective where a vehicle is known to have been involved in the commission of an offence e.g fly-tipping, but there is insufficient information concerning who committed the offence. It can also be used to 'flush out' owners where it is unclear who is the registered keeper. This power is ineffective if there is no link between the vehicle and a waste offence.</p> |
|---------------------------------|--|

## Contacts

### Illegal Occupation issues

Sheldon Ferguson

[Sheldon.ferguson@communities.gsi.gov.uk](mailto:Sheldon.ferguson@communities.gsi.gov.uk)

Joanna Hahn

[Joanna.hahn@communities.gsi.gov.uk](mailto:Joanna.hahn@communities.gsi.gov.uk)

### Traveller issues

Ian Naysmith

[ian.naysmith@communities.gsi.gov.uk](mailto:ian.naysmith@communities.gsi.gov.uk)

### Planning Enforcement issues

Robert Segall

[Robert.segall@communities.gsi.gov.uk](mailto:Robert.segall@communities.gsi.gov.uk)

# Development Management

## Central Bedfordshire Council

Priory House, Monks Walk  
Chicksands, Shefford  
Bedfordshire SG17 5TQ  
www.centralbedfordshire.gov.uk



### BREACH OF CONDITION NOTICE

**TOWN AND COUNTRY PLANNING ACT 1990**  
**(as amended by the Planning and Compensation Act 1991)**

### **IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**SERVED BY: Central Bedfordshire Council**

To: Owner/Occupier

**1. THIS NOTICE** is served by the Council, under section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in paragraph 2 below, has not been complied with. The Council consider that you should be required to comply with the condition specified in this notice. The Annex at the end of this notice contains important additional information.

### **2. THE LAND TO WHICH THIS NOTICE RELATES**

Land at ----- shown edged and shaded blue on the attached plan ('the Land')

### **3. THE RELEVANT PLANNING PERMISSION**

The relevant planning permission to which this notice relates is the permission granted by the Council on ----- for Erection of 100 dwelling including affordable housing, an equipped area of play, access and associated works reference number CB/--/-----/FULL.

### **4. THE BREACH OF CONDITION**

The following condition has not been complied with.

Condition 1:

Notwithstanding the details shown for indicative purposes on the plans (and within the Transport Assessment) submitted in support of the application, no development shall commence at the site before a scheme indicating the following measures has been submitted to and approved by the Local Planning Authority.

- Speed reduction measures along ----Road
- Measures to control on-street parking along ---- Road and surrounding junctions.
- Provision of parking bays within the ---- Road frontage of the site but clear of

- the existing carriageway.
- Provision of a varying width footway along the west side of ---- Road to form a continuous pedestrian link from the site to the junction of ---- Road with ---- Road.

No dwelling shall be occupied until such time as the approved works have been implemented unless otherwise agreed by the Local Planning Authority.

Reason: To safeguard against any detrimental impact the development may have on existing vehicle movement and parking along New Road and to provide a safe route for pedestrians.

## 5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in paragraph 4 of this notice, you are required to comply with the stated condition by taking the following steps:-

- 1) The highway works shall be implemented as approved by the Council on -----.

Period for compliance:

- 1) 3 months beginning with the day on which this notice is served upon you.

**Dated:**                   -----

**Signed:**



Quentin Baker

**AD Legal and Democratic Services**

On behalf of Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ

## **WARNING**

**THIS NOTICE TAKES EFFECT *IMMEDIATELY* IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.**

**THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR THE ENVIRONMENT AGAINST THIS NOTICE.**

It is an offence to contravene the requirements stated in paragraph 5 of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates Court, for which the maximum penalty is £2500 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch, *immediately* with -----, at Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Bedfordshire, SG17 5TQ, telephone 0300 300 8000

If you do need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of this notice, you may only do so by an application to the High Court for judicial review. A lawyer will advise you what this procedure involves.

**Do not leave your response to the last minute.**

# Development Management

## Central Bedfordshire Council

Priory House, Monks Walk  
Chicksands, Shefford  
Bedfordshire SG17 5TQ  
www.centralbedfordshire.gov.uk



### ENFORCEMENT NOTICE

CB/ENC/--/----

**TOWN AND COUNTRY PLANNING ACT 1990  
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)**

### **IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**ISSUED BY: CENTRAL BEDFORDSHIRE COUNCIL ('The Council')**

1. **THIS NOTICE** is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Notes at the end of the notice contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land and Buildings at the Rear of, ----- shown shaded and edged blue on the attached plan ('the land')

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Without planning permission, the material change of use of the Land from agricultural use to a use for the storage of materials, equipment and machinery associated with the unauthorised demolition business.

4. **REASONS FOR ISSUING THIS NOTICE**

- (a) It appears to the Council that the above breach of planning control has occurred within the last ten years.
- (b) The visual change of use of the Land is considered to have a harmful impact on the open countryside. The use is therefore contrary to Policies DM3 (High quality development), DM4 (Development within and beyond settlement envelopes) of the Core Strategy and Development Management Policies 2009. It is also considered contrary to policies contained within the National Planning Policy Framework 2012(NPPF) particularly paragraphs 109, 116,117 and 118 (Conserving and enhancing the natural environment)

- (c) The Council does not consider that planning permission should be granted because planning conditions could not overcome these objections to the use.

**5. WHAT YOU ARE REQUIRED TO DO**

- i) Cease the use of the Land for the storage of materials, equipment and machinery associated with the unauthorised demolition business
- ii) Remove the materials, equipment and machinery associated with the unauthorised demolition business from the Land.

**6. TIME FOR COMPLIANCE**

- i) One month from the date when this notice takes effect.
- ii) One month from the date when this notice takes effect.

**7. WHEN THIS NOTICE TAKES EFFECT**

The Notice takes effect on -----, unless an appeal is made against it beforehand.

**Dated:** -----

**Signed:**



Quentin Baker

**AD Legal and Democratic Services**

On behalf of Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Bedfordshire, SG17 5TQ

## **ENFORCEMENT NOTICE - EXPLANATORY NOTES**

### **YOUR RIGHT OF APPEAL**

There is a right of appeal to the Secretary of State (at the Planning Inspectorate) against the Notice. Unless an appeal is made, as described below, the Notice will take effect on the 1st July 2016 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period specified in the Notice.

If you decide that you want to appeal against the Notice you must ensure that you send your appeal soon enough so that it will be delivered by post/electronic transmission to the Secretary of State (at the Planning Inspectorate) before the date specified in paragraph 7 of the Notice, which is -----.

A booklet titled 'Making your appeal - How to complete your enforcement appeal form' can be downloaded from the Planning Inspectorate website, or a copy can be requested from the Planning Inspectorate.

Please note that a separate appeal form must be completed for each individual person or organisation.

### **GROUND OF APPEAL**

The grounds on which an appeal may be brought are set out in Section 174 of the Town and Country Planning Act 1990 (as amended), and are explained in the aforementioned booklet 'Making your appeal - How to complete your enforcement appeal form' which can be obtained from the Planning Inspectorate.

You may appeal on one or more of the following grounds:

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the Notice, and you should state briefly the facts on which you intend

to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

## **FEE PAYABLE FOR DEEMED APPLICATION FOR PLANNING PERMISSION**

If you appeal on ground (a) that planning permission ought to be granted for the development to which the notice relates, a fee is payable for the deemed application by the appellant under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012.

The fee is payable to the Council who issued this notice. It is twice the equivalent fee you would have had to pay to the Council if you had applied for planning permission for the matters to which the enforcement notice relates.

The appropriate planning fee for the development alleged in this notice is £---. A cheque for the sum of £--- shall be made payable to "Central Bedfordshire Council" and this cheque should be posted together with one copy of the appeal form to Planning Enforcement and Appeals, Central Bedfordshire Council, Priory House, Monks Walk, Chicksands, Shefford, Beds, SG17 5TQ.

## **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.



# The Planning Inspectorate

CST Room 3/13  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line 0303 - 444 - 5000

Fax No 0117 - 372 - 8782

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal ([www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs)); or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**You MUST make sure that we receive your appeal before the effective date on the enforcement notice.**

In exception circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address' and
- the effective date of the enforcement notice.

We MUST receive this before the effective date in the enforcement notice. This should **immediately** be followed by your completed appeal forms.