

North Yorkshire Council

Local Planning Enforcement Plan



DATE

1.0 Introduction

- 1.1 This is North Yorkshire Council's (NYC) Local Planning Enforcement Plan. It describes how the Council will undertake its role of enforcing planning control.
- 1.2 This Plan explains how the Council will manage planning enforcement in a clear, robust, proactive way that is appropriate to the area. How it will:
- Respond to alleged breaches of planning control
 - Take enforcement action where it is expedient to do so
 - Monitor compliance with strategically important planning decisions and minerals and waste sites
- 1.3 The purpose of the Plan is to make clear what those undertaking breaches of planning control and those reporting it should expect from the Council and how the Council will prioritise and undertake its investigations as well as the monitoring of minerals and waste sites and strategically important planning decisions.

2.0 National and Local Guidance

- 2.1 This Plan has been prepared in accordance with the advice contained within the **National Planning Policy Framework (NPPF, 2024)** issued by the Department for Communities and Local Government which states at paragraph 60:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate”

- 2.2 The Plan details the formal enforcement tools available to the Council in the exercise of its enforcement function at Appendix A and has been formulated with regard to: the Planning Acts; Relevant Planning Practice Guidance and circulars; the Human Rights Act, the Regulation of Investigatory Powers Act and reflects the principles of the proposed NYC General Enforcement Strategy. The main elements of the legislative framework and guidance relating to planning enforcement are set out in Appendix B.
- 2.3 The Plan aligns to the priorities set out in the Council Plan 2023-2027, and the Council's vision “.....to build on North Yorkshire's natural capital, strong local economy and resilient communities, to improve the way local services are delivered and support a good quality of life for all” and is based on five key theme ambitions:
- place and environment
 - economy
 - health and wellbeing
 - people

- organisation

The planning system is a key factor in the delivery of this ambition.

- 2.4 The planning system exists to manage development and use of land, in the public interest. The system is not to protect one person's rights against the activities of another. The planning system can only achieve its objectives if planning controls are enforced when necessary. The enforcement of planning controls is therefore a fundamental part of the planning system; to monitor the proper implementation of planning decisions and to respond to development that arises without necessary permission. The system relies on informed decision-making within a statutorily approved framework and policy context in order to maintain public confidence.

3.0 The Council's approach to Planning Enforcement

- 3.1 The Council must exercise a careful balance between the rights of the developer, user or owner of land or buildings and the wider public interest. The Council has to prioritise the enforcement work it carries out.

The Council will:

- Place a high priority on compliance with planning law. It is recognised however, that many breaches of planning law, although unlawful, do not constitute a criminal offence, until there is non-compliance with an enforcement notice.
- Endeavour, as required in Government advice, to resolve matters via negotiation over a clear, defined period and considering genuine alternative solutions to resolving breaches. Formal enforcement action will be used where it is felt that reasonable negotiation has not succeeded.
- Exercise proportionality in applying the law and securing compliance and take account of the risks and costs of not taking action and taking action.
- Via the delegated powers of the Enforcement Team Managers and Principal Enforcement Officers, decide whether or not it is expedient to commence enforcement action. Decisions not to take enforcement action, or to close a case when there is a breach of planning control, will be made by the Enforcement Team Managers and the Principal Enforcement Officers. Reasons for these decisions will be recorded in writing. The Council recognises that planning enforcement is a discretionary procedure, which relies upon the test of expediency in the public interest. Although there is a duty on the Council to investigate alleged breaches of planning control, there is no mandatory statutory requirement to undertake enforcement action.
- Take enforcement action when it is considered expedient to do so. In taking formal enforcement action, the Council will be prepared to use all the enforcement powers available and commensurate with the seriousness of the breach.
- Keep a full and accurate record of its actions and will be clear and precise in specifying breaches and requirements.

- Will interact with all users of the Planning Enforcement Service in an honest, engaging, responsive and courteous manner and will keep Divisional Members informed.
- 3.2 Trivial or Technical breaches of planning control causing no material harm or adverse impacts or where development may be acceptable subject to planning permission being granted are unlikely to result in formal enforcement action.
- 3.3 Formal enforcement action can be necessary when work is carried out and those undertaking that work do not comply with requests to obtain the necessary permission or consent and do not undo the action that has led to the breach of planning control.

4.0 Key Principles of the Local Enforcement Plan

Objectivity

- 4.1 The Council will judge the 'development', not 'who' is responsible for it or how it came about, and will therefore choose from the following options in deciding how to act:
- Where it is felt that planning conditions could make the development acceptable, under Local and National Policy, the reasonable approach is to request a retrospective planning application within a clear time scale. If an application is not received within a reasonable time scale, enforcement action may be necessary and justified if the Council can demonstrate that appropriate planning conditions would be necessary to overcome, control or mitigate harm caused by the development.
 - Where the development clearly cannot be made acceptable in planning terms, the Council will not seek a planning application but will instead set a time limit for cessation or relocation of the development or removal and reinstatement and will be prepared to serve an enforcement notice if progress is not made within that time scale.
- 4.2 A planning application is the most appropriate way to consider the merits of development against national and local policy in the public domain, to allow consultations and allow affected neighbours and other interested parties to make representation. It is therefore appropriate to encourage retrospective planning applications.

Proportionality

- 4.3 The response to a breach of control should be proportionate to the harm it causes. Harm will be assessed according to the degree of conformity or conflict with national and local planning policy, in much the same way that planning applications are assessed. Planning enforcement is an appropriate response to something that is unacceptable in planning terms.

Justice

- 4.4 Enforcement action will not normally be pursued while a planning application for the same development is under consideration, or when the matter has been taken to appeal. The Council must deal with the application fairly before proceeding with enforcement action as necessary.
- 4.5 Justice must be seen to be done and therefore we will clearly explain the reasons for our decisions.

5.0 What the Planning Enforcement Team investigates

- 5.1 The Council as Local Planning Authority are responsible for investigating alleged breaches of planning control, including unauthorised adverts, unauthorised works to listed buildings, alleged untidy land and buildings and unauthorised works to protected trees. A breach of planning control is development carried out without any requisite express permission. Examples are included in Appendix A and Appendix C.

6.0 When is there a breach of planning control?

- 6.1 A breach of planning control is defined at **Section 171A of the Town and Country Planning Act 1990** as *“the carrying out of a development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted”*.
- 6.2 **Section 55 of the Town and Country Planning Act 1990** defines development as *“the carrying out of building, mining, engineering or other operations in, on, under or over land, or the making of any material change in the use of any buildings or other land”*.

6.3 Permitted Development

Some developments, building works or changes of use are ‘**permitted development**’ under **Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015** (as amended) and are not breaches of planning control. To be permitted development the development must be implemented in accordance with specified size limits, criteria and conditions. If this is the case the development does not need the permission of the Council and effectively permission has been granted by the government. It is noted that within Conservation Areas and National Landscapes permitted development rights are more restricted. Further information can be found in Appendix B.

6.4 Minor Works and the ‘de minimis’ Principle

It may be that, although technically development, the Council considers some work to be ‘de minimis’, i.e. so minor that they would practically fall outside the scope of planning control. Whether works are de minimis is a judgment to make by

the Council on a case-by-case basis based on fact and degree. If works are 'de minimis' no further action will be taken.

7.0 The Investigation Service

7.1 The Council's Planning Enforcement Team will impartially investigate breaches of planning control. Any member of the public or interested party may report, in writing, development they believe to be in breach of planning control and ask for this to be investigated. This can be done via post, email or completing a form on our website. Contact can be made to the Customer Services Team by phone (0300 131 2131). Further information can be found on the Planning Enforcement page of the Council's website.

7.2 In order to investigate an alleged breach of planning control, the following information is required:

- Full name and *two* methods of means of communication chosen from; full postal address, email address, telephone number of the complainant. This must be provided as we may need to contact the complainant for more detailed information during the investigation.
- Full address of property or detailed location to which the breach relates (what3words location, google pin, map reference)
- Details of the alleged breach and the harm it is causing

In addition to these requirements any other relevant information is very helpful including:

- Dates when the alleged breach started/took place.
- Any history known concerning the previous use of the property/land
- Name, address, telephone no., email, website of responsible parties

7.3 Complainants who are reluctant to give their details because they fear repercussions are advised that their details are treated with the strictest confidence in accordance with government legislation¹. The identity of complainants will be treated as confidential, and the general public will not have access to the Council's enforcement files. Information that has been submitted in confidence can be exempted from disclosure under the Freedom of Information Act 2000, Environmental Information Regulations (EIR) 2004 and the Data Protection Act 1998 would require any personal information including names, addresses, telephone numbers and email addresses to be removed from any information the Council has to release. These measures protect the anonymity of complainants and allow the Council to carry out its enforcement duties effectively.

7.4 If an individual is still reluctant to provide contact details, we would advise them to use their local member or Parish/Town Council to act on their behalf. To avoid the risk of malicious or vexatious complaints², anonymous complaints will not be investigated unless there is considered to be irreparable and immediate harm to

¹ Under Parts 1 and 2 of Schedule 12A of the Local Government Act 1972 (as amended), enforcement files are not public documents and complainant details are confidential.

public safety, or the natural or built environment in order to minimise consideration of potentially repetitive or vexatious allegations.

- 7.5 However, if the investigation proceeds to formal action, resulting in prosecution in the High Court or at public inquiry, it may not be possible for the Council to guarantee the anonymity of the complainant. In these cases, the complainant will be informed of the situation before the Council goes to court or public inquiry. If a complainant is unwilling to appear in court or at a public inquiry it may not be possible to continue with the action.

8.0 Service Standards

- 8.1 Complaints will be recorded onto the Council's Planning Enforcement database and complainants will receive a written acknowledgement of their request for service within 3 working days of the complaint receipt. This will include the name and contact details for the allocated enforcement officer investigating their concerns and the assigned priority level for a site visit.
- 8.2 When an allegation of works causing a breach of planning control is received the Planning Enforcement Team will first seek to comprehensively investigate if the allegation is correct and a breach of planning control has occurred. If the allegation is found to not be a breach of planning control or that there is no, or insufficient, evidence to demonstrate that there is a breach of planning control the case may be unable to proceed to the later stages
- 8.3 When a written allegation of a breach of planning control is received the Planning Enforcement Team will follow these five steps to assist in identifying whether the alleged breach is a matter that can be controlled using Planning Enforcement tools and whether any action would be in accordance with this policy: -
- What is the alleged breach of planning control?
 - Is there evidence that a breach of planning control has occurred?
 - What planning harm has arisen from the alleged breach of planning control?
 - What action could be taken to address the alleged breach?
 - Would the action that could be taken be appropriate, proportionate and expedient in the public interest?

8.4 Case Priorities

Investigating breaches of planning control is often complex and time consuming, priority is given to those cases where the greatest harm is being caused to residential or public amenity, highway safety, heritage assets, landscape character and interests of acknowledged importance. Complaints regarding breaches of planning control will be investigated in accordance with the order of priority set out below, relating to the degree of harm. The target response times below indicate the period in which the case officer will aim to make a site visit:

High Priority

(Objective aim to make a site visit within 1 working day)

- Matters that result in harm to public safety.
- Permanent or irreparable harm, such as loss of a protected tree or unauthorised demolition, partial demolition or significant alteration to a listed building or building within a conservation area.
- Activities that have the potential to cause irreparable harm to the environment, especially within Sites of Special Scientific Interest and National Landscapes (formally AONB).

Medium Priority

(Objective aim to make a site visit within 5 working days)

- Unauthorised development / activity which causes significant and continued harm by adversely affecting amenity, such as building work which is unlikely to be granted planning permission or unauthorised uses of a residential property.
- Breach of a condition attached to a planning permission which results in harm by adversely affecting amenity of an area.
- Unauthorised development / activity, which is the source of significant public complaint.

Lower Priority

(Objective aim to make a site visit within 15 working days)

- Unauthorised development / activity which is not classed as being high or medium priority.
- Cases where there is a breach of planning control but little or no immediate harm to amenity.
- Breaches of condition attached to planning permissions which results in minor harm or is a technical breach.
- Unauthorised advertisements and untidy land issues.
- Mineral extraction and waste management that has ceased.

We will aim to undertake 80% of initial site visits within the above time periods.

When the service is in high demand we may not be able to meet these timeframes in all cases.

8.5 Updates on Progress

It is not always possible to anticipate how a particular case will develop and the timescale for resolving an issue can be difficult to predict. If the investigation remains ongoing, it will be regularly monitored and necessary action will be taken

to ensure progression, additional updates will be provided where there is a significant development in progress or to provide other pertinent information. This would include for example, the submission of a planning application, the serving of an enforcement notice or the closure of the investigation, including clear explanation and reasoning. If enforcement action is commenced, the relevant Divisional Member will also be informed.

We will:

- Acknowledge the allegation of a breach of planning control within 3 working days.
- Aim to undertake a site visit/inspection within 1, 5 or 15 working days depending on its priority (as outlined above).
- Aim to update the complainant within 21 working days of the site visit as to the proposed course of action and within two months of the site visit to advise of progress of the investigation.
- We will aim to inform the individual subject of the alleged breach of planning control the Council's proposed course of action within 21 days of the site visit.
- Advise the person making the alleged breach of planning control of the final decision within 7 working days of the conclusion of the investigation.

9.0 Types of Action

9.1 When a clear breach of planning control is established there are several courses of action:

1. Take no further action where the breach is minor in nature and is not causing harm.
2. Negotiate a solution to mitigate the impact of the development where this can be achieved, or ensure it is removed.
3. Request a retrospective planning application to seek to regularise the development where it is considered that the breach of planning control can be made acceptable by the imposition of conditions.
4. Formal action to stop and/or remove the development which involves serving a Notice on the relevant parties which outlines what action they are required to take to resolve the breach within a set defined time period. Depending on the harm caused and its severity it may be necessary to take formal action immediately without negotiation.
5. Prosecution; where formal action has failed to resolve the breach of planning control, the Council may pursue the matter through the Courts and/or 'direct action' undertaken by the Council in order to rectify the breach of planning control.

9.2 Any action taken will need to be proportionate with the breach of planning control to which it relates, and formal action will be taken where negotiations with the operator or landowner have failed to resolve the matter, and it is considered to be in the public interest.

9.3 Voluntary compliance

The Council will normally encourage those responsible for a breach of planning control to resolve the issue(s) voluntarily. The person responsible for the breach will normally receive written confirmation and an explanation of the breach. The Council will impose a date by which to:

- Remedy the breach; and/or
- Submit a retrospective planning application in order to seek to attempt to regularise the breach of planning control.

9.4 Where the development appears to be acceptable the Council will normally ask for a retrospective planning application to be submitted. It is usually in the interests of the landowner to submit such an application as it will help to avoid problems when and if the property changes ownership.

9.5 The Council is obliged to deal fairly and objectively with any application submitted, however where the development is clearly contrary to national and local policy it is unlikely to be approved. Powers are also available to decline to consider a retrospective application where an enforcement notice is in place.

9.6 The Council will not allow protracted negotiations to prevent the taking of prompt and effective formal enforcement action where this is necessary. There are four and ten year rules whereby developments cannot be pursued after these periods. It reserves the right to serve any notice during the course of negotiations, or in the event of a retrospective planning application being made, in order to avoid undue delay. This may also be necessary where there is a possibility that a development may become immune from enforcement action through the passage of time.

10.0 Time limits

10.1 **Section 171B of the Town and Country Planning Act 1990** sets out time limits for taking enforcement action. The Council cannot serve a notice after ten years where the breach of planning control involves building operations, or the change of use of any building to a single dwelling house, from the commencement of the breach. Other unauthorised changes of use and breaches of conditions are also subject to a 10-year time limit. Serving an enforcement notice in respect of a development stops the clock in relation to time limits. Where the Council consider a breach may be close to the relevant time limit it may seek to take urgent enforcement action to prevent a development becoming lawful. After 10 years the Council cannot act, and the development becomes lawful.

10.2 Section 171B was amended April 2024 with the previous four-year period being replaced with ten years as outlined above. Under the transitional arrangements, the four-year enforcement period will still apply where the operational development was substantially completed before 25 April 2024 or, in relation to the change of use to a single dwelling, where the breach occurred prior to 25 April 2024.

- 10.3 Although a development will generally become immune from enforcement if the period for enforcement has passed, in cases where there has been concealment of a breach, the local authority has the right to take enforcement action “out of time”.
- 10.4 Breaches of the listed building consent regime never become immune. This means that any unauthorised works to a listed building can lead to enforcement action, regardless of whether a listed building enforcement notice has been served.

11.0 Appeals against Formal Enforcement Action

- 11.1 When an appeal is lodged against an enforcement notice the notice is suspended pending the outcome of the appeal. The Council must await the outcome of the appeal decision before determining an appropriate course of action. The Planning Inspector appointed by the Secretary of State to determine the appeal can uphold, quash or revise the Notice. This decision is binding upon the Council.

12.0 Formal Complaints Procedure

- 12.1 The Council is committed to providing an engaging, responsive, effective and efficient planning enforcement service. Anyone that is dissatisfied with the service should first discuss their concerns with the Enforcement Team Managers. If they remain dissatisfied the Council has a formal Complaints Procedure that can be found on the Corporate Complaints section of our website. This details how a corporate complaint can be made, investigated, and responded to.

12.2 Local Government Ombudsman

If anyone considers that the Council has not sufficiently investigated an issue, or that the decision not to initiate enforcement action is not well-founded, they may also, in certain circumstances refer the matter to the Local Government Ombudsman or apply to the High Court for judicial review.

13.0 Monitoring and compliance

- 13.1 When planning permission or other consent is granted, the development should be carried out in accordance with the approved plans and any conditions imposed on the permission. The Council recognises the importance of compliance with planning conditions and will consider formal action where there is a breach of a condition that comes to its attention. Planning conditions imposed on strategically important planning decisions will be actively monitored to seek to ensure compliance.

13.2 Monitoring of Minerals and Waste Sites

All dormant and operational minerals sites and operational waste sites with planning permissions we grant will be the subject of periodic routine monitoring visits in accordance with a prescribed schedule. The monitoring is to ensure sites comply with planning conditions, approved schemes, plans and documents and

requirements of legal agreements and to identify any non-compliance with planning conditions, approved schemes, plans and documents and requirements of legal agreements and any unauthorised development that requires addressing or action.

13.3 The frequency of monitoring will be determined by the nature of the site and how it is understood to be operating. Monitoring is usually carried out as part of a prearranged visit although unannounced visits may be carried out, particularly if there is a need to investigate reported alleged breaches of planning control.

13.4 A monitoring report will be prepared at the time of the visit that confirms:

- whether the site is operating in accordance with the planning permission(s), planning conditions, approved schemes and programmes and plans or otherwise.
- what action, if any, is necessary to ensure compliance.
- the timescales within which action, if any, is to be completed.
- the date of the next visit to confirm the identified action has been carried out.

13.5 We will aim to issue a letter/email, with a copy of the report, will be provided to the site operator confirming compliance and/or highlighting areas needing action within 14 days of the visit.

13.6 In the event any identified action is not subsequently taken, depending on the scale and nature of any non-compliance, we may pursue any of the enforcement options referred to above. We will always work with an operator to ensure compliance with the approved planning permission(s), planning conditions, approved schemes, programmes, plans and legal obligations to ensure there is no unacceptable risk to the environment or the amenities of the area or others.

13.7 Under regulation 15 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, as amended, mineral planning authorities dealing with county matter applications are able to charge to monitor mineral and landfill permissions. This covers initial implementation to the end of the period of aftercare required by a condition of the planning permission. The fees are stated below:

Where the whole or part of the site is active £496
Any other case £165

This may be subject to change to reflect up to date fee increases.

14.0 Rights of Entry

14.1 Officers are granted rights of entry by the Town and Country Planning Act 1990. This details that: “any person duly authorised in writing by a local planning authority may at any reasonable hour enter any land (except a dwellinghouse where 24 hours’ notice of intended entry must be given to the occupier) ... to determine whether there is or has been a breach of planning control”. In planning

law, “dwellinghouse” excludes flats and residential caravans but the Council will afford occupiers the same 24-hour notice period. It is not necessary to give 24 hours’ notice to enter a garden or other land belonging to a dwellinghouse, just the building itself, although the Council will always pay due regard to rights to privacy. Any person authorised to enter land in pursuance of such a right of entry or under warrant is required to produce evidence of such authority and also state the purpose of entry, if requested, under Section 196C (1) (a) of the Act before entering. It is an offence to willfully obstruct entry where the correct procedures have been followed.

- 14.2 Sections 324 and 325 of the Town and Country Planning Act 1990 give more general rights of entry for planning purposes. Other legislation enables similar rights of entry in connection with listed buildings, trees, high hedges, hedgerows, advertisements and hazardous substances matters, together with various powers within the Local Government (Miscellaneous Provisions) Acts of 1976 and 1982.
- 14.3 Planning Enforcement Officers carry identity cards bearing their name and photograph authorising them to enter land to investigate planning enforcement complaints. Officers will always introduce themselves and explain the purpose of their visit.

15.0 Joint Working

- 15.1 Officers will co-operate with and seek appropriate assistance from other Council services and from other bodies, including the Highway Authority, licensing and environmental health, the Local Lead Flood Authority, North Yorkshire Police and the Environment Agency.
- 15.2 Where another service area or body has more effective powers and is prepared to use them to achieve similar results it may not be necessary to also take action under the planning acts.

16.0 Monitoring of Performance

- 16.1 The Planning Enforcement Service will monitor its performance in relation to targets, casework levels, type and number of notices served, and cases resolved on a quarterly basis. Furthermore, this Local Enforcement Plan, and its standards, will be reviewed every three years.

Appendix A: Tools of formal enforcement action and relevant legislation

The Council may use the following formal methods to remedy any breach of planning control

Enforcement Notice

The Enforcement Notice will state the reasons for action being taken and specify the steps which the Council require to be taken to remedy the breach and when that shall be undertaken. There is a right of appeal to the Planning Inspectorate.

Listed Buildings Enforcement Notice

Listed Building Consent is required from the Council to carry out any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. There are no time limits for taking enforcement action with respect to listed building offences. There is a right of appeal to the Planning Inspectorate.

Breach of Condition Notice (BCN)

Served in addition to or as an alternative to an Enforcement Notice where development has taken place without compliance with a condition(s) of a planning permission. There is no right of appeal for these notices.

Stop Notice

A Stop Notice may be issued to support an Enforcement Notice. It has the effect of requiring a breach of planning control to cease. A Stop Notice is only used where the breach of planning control is causing severe, serious and irreversible harm. The Notice usually takes effect after a period of 3 days and prohibits continuation of any, or all of the activities specified. Failure to comply with a Stop Notice is an offence liable to prosecution in the Magistrates Court and a fine.

Temporary Stop Notice (TSN)

May be served where a harmful unauthorised development or use needs to be stopped immediately. A TSN can be served before an Enforcement Notice has been served to cease an unauthorised activity on the land (for a maximum of 56 days). There is no right of appeal for these Notices.

Planning Enforcement Order

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taken enforcement action have expired. A Planning Enforcement Order enables the Council to take action in relation to an apparent breach of planning control notwithstanding that the time limits have expired. A Local

Planning Authority must have sufficient evidence of the apparent breach of planning control to justify applying for a Planning Enforcement Order.

Hedgerow Replacement Notice

May be served where a hedgerow has been removed. They affect hedgerows which are 20 metres or more in length; which meet another hedgerow at each end; are on or adjoin land used for: agriculture, forestry, the breeding or keeping of horses, ponies or donkeys, common land, village greens, Sites of Special Scientific Interest (SSSIs) or Local Nature Reserves. Garden hedges are not affected.

Section 215 Notice

Under Section 215 of the Town and Country Planning Act 1990 (as amended) a Council can serve a Notice requiring land to be cleared and tidied up when its condition adversely affects the amenity of the area. The notice must specify clearly and precisely what needs to be done to remedy the condition of the land and state a period of time within which the works must be completed. Appeals are made to the Magistrates Court. Failure to comply is an offence subject to prosecution in the Magistrates Court.

Planning Contravention Notice (PCN)

The power to issue a PCN lies in Section 171C of the Town and Country Planning Act 1990 (as amended). This seeks to establish what is happening on a site and who is responsible. It is intended to act as an information gathering tool. The Notice requires details and information on an alleged breach of planning control to be submitted to the Council to clarify whether or not a breach has occurred. Failure to respond within 21 days, or submission of false or misleading information is a criminal offence and may result in prosecution in the Magistrates Court and a potential fine.

Completion Notice

When planning permission has been granted for a development subject to a 'commence within 3 years' condition, and this condition was complied with, but the development has not been completed, the LPA if they are of the opinion that the development will not be completed with a reasonable time period may serve a completion notice stating that the planning permission will cease to have effect at a specified time ('the completion notice deadline').

Enforcement Warning Notice (EWN)

Where it appears to the LPA that there has been a breach of planning control and that there is a reasonable prospect that, if an application is made, permission would be granted an EWN may be issued stating that unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken. This stops the clock on immunity.

Development Commencement Notice

Requires a relevant person to provide information concerning when development will be commenced

Unauthorised Adverts

Advertisements which are displayed in breach of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 constitute an offence and render those responsible and the owner of the land liable to immediate prosecution in the Magistrates Court and a fine.

Advert Removal Notice

Section 225A of the 1990 Act allows Local Planning Authorities to remove and dispose of any display structure – such as an advertisement hoarding – which, in their opinion, is used for the display of illegal advertisements.

Advert Discontinuance Notice

Discontinuance action is when a Local Planning Authority serves a notice (a 'Discontinuance Notice') under Regulation 8 of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, requiring that the display of a particular advertisement with deemed consent (or the use of a particular site for displaying advertisements with deemed consent) be discontinued.

Listed Building Repairs Notice

A Local Planning Authority can serve a Repairs Notice on the owner if they consider that the Listed Building is not being properly preserved under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Listed Building Urgent Works Notice

Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables the Local Planning Authority to carry out urgent works for the preservation of Listed Buildings in their area after giving notice to the owner.

Tree Replacement Notice

A landowner has a duty to replace a tree which is removed in contravention of a TPO (Tree Protection Notice), where this is not complied with the Local Planning Authority have powers under section 270 of the Town and Country Planning Act 1990 to issue a Tree Replacement Notice (TRN). These powers can also be used where a tree has been removed in a conservation area in contravention of Section 211 of the TCPA 1990 and in circumstances when a condition to plant a replacement tree, on a consent to fell a tree under a TPO is not complied with.

Injunction

A planning injunction is a legal order that can be sought by the planning authority to restrain actual or anticipated breaches of planning control under section 187B of the Town and Country Planning Act 1990. The application is generally made against the owner or occupier of the Land and can be made to the County Court or the High Court.

An injunction may be prohibitory or mandatory – that is, it may prohibit a defendant from certain actions, or it may order the defendant to do a certain thing.

Defacement Removal Notice

This type of notice can be used to take action against signs such as graffiti on surfaces which are readily accessible to the public, which it considers to be detrimental to the amenity of the area or offensive. The Notice would be served on the occupier of the premises requiring them to remove or obliterate the sign allowing at least 15 days to comply. If action is not taken within the specified time, the local planning authority may take the action itself and recover its expenses from the person responsible.

Appendix B: Further information (legislation, policy and guidance)

The following is a list of the main legislation, policy and guidance documents that are especially relevant to the work of the planning enforcement team. This list is **not** exhaustive:

Policy/Legislation

- Levelling Up and Regeneration Act 2023
- Town and Country Planning Act 1990 (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Town and Country Planning (General Permitted Development) Order 2015
- Town and Country Planning (Use Classes) Order 1987 (as amended)
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)
- The Planning (Hazardous Substances) Act 1990
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Former District Local Enforcement Plans
- Draft North Yorkshire Council Plan 2023-2027
- Minerals and Waste Joint Plan
- NYC Enforcement Strategy
- NYC Unacceptable Complainant Behaviour Policy

Guidance

- The Planning Portal – Do You Need Permission?
- The Planning Inspectorate - Enforcement Appeals
- National Planning Practice Guidance (NPPG)
- Section 215 Best Practice Guidance
- Planning Inspectorate – enforcement appeals guidance

Appendix C: Examples of Planning/Non Planning Matters

Planning Issues

Examples of breaches that the planning Enforcement Team investigate include, but are not limited to:

- unauthorised operational development – carrying out of building works, for example construction of buildings or extensions.
- unauthorised works to listed buildings that affect its character as a building of special architectural or historic interest.
- unauthorised material changes of use – changing the use of a building or land, for example, using agricultural land for residential purposes.
- unauthorised demolition of buildings (total or substantial) within a conservation area.
- unauthorised works to protected trees and removal of hedgerows in the open countryside.
- breaches of conditions – breaching conditions imposed on planning permissions, for example, conditions restricting hours of operation.
- unauthorised display of advertisements; and
- poor condition of buildings and private land which is affecting the amenity of an area.

Non-Planning Issues

The Planning Enforcement Team receive requests for service regarding issues that do not involve a breach of planning control. To ensure these are dealt with effectively, it is important to identify those issues which are relevant to planning so that advice can be directed appropriately. Examples of issues that may not be planning matters include:

- Obstruction or works affecting the public highway should be reported to North Yorkshire Council Highways Authority.
- Dangerous structures/subsidence and inappropriate building construction methods or practices should be reported to North Yorkshire Building Control Service
- Fly tipping – please report any incidents via the Fly Tipping section of our website.
- Internal refurbishment of buildings that are not Listed.
- Neighbour disputes/boundary, party wall and land ownership or land grab disputes are civil matters that the Council cannot legally get involved in. Further advice on these matters should be obtained from a solicitor or the Citizens Advice Bureau.
- Pests or vermin – please report any incidents via the Pest Control section of our website.
- Disputes arising from noise, smell or light should be reported to the Environmental Protection Team.
- Issues involving pollution or obstruction of a water course, land contamination or unauthorised waste disposal should be reported to the Environmental Protection Team.

- Civil or common law matters such as trespass, rights of access, shared drainage/sewers or assault – you should seek independent legal advice in these instances and/or police involvement where necessary

Appendix D: Useful contacts

North Yorkshire Council

The North Yorkshire Council Website can be accessed via -
[Home | North Yorkshire Council](#)

All Planning matters, including enforcement, can be found at –
[Planning and conservation | North Yorkshire Council](#)

Other information on how to speak with us can be found at -
[Contact us | North Yorkshire Council](#)

The North Yorkshire Council contact phone no. is 0300 131 2131

External agencies and organisations

Health and Safety Executive (health and safety on building sites)
www.hse.gov.uk/

North Yorkshire Police
northyorkshire.police.uk/

Royal Town Planning Institute – National Association of Planning Enforcement
[www.rtpi.org.uk/knowledge/networks/planning-enforcement-\(nape\)/](http://www.rtpi.org.uk/knowledge/networks/planning-enforcement-(nape)/)

Considerate Constructors Scheme
www.ccscheme.org.uk/

Citizens Advice Bureau
www.citizensadvice.org.uk/

Local Government Ombudsman www.lgo.org.uk/make-a-complaint/fact-sheets/planning-and-building-control/planning-enforcement

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