

---

# Planning Enforcement Plan

---



July 2018

## **Executive summary**

Without effective enforcement, confidence in the Council's ability to protect public amenity and the built and natural environment is quickly undermined.

The purpose of this Plan is to explain how the Council carries out its planning enforcement activities. It sets out what those making enquiries, or the subject of these enquiries, should expect and outlines how the Council undertakes planning investigations. A simple flowchart has been appended to this document to give a visual guide as to how enforcement cases are handled and how formal action is taken, and should be read in conjunction with the Enforcement Plan.

# Contents

Introduction	1
What is a breach of planning control?	2
When is permission required	3
How do I report a suspected breach?	4
What you can expect from us when you make an enquiry	5
What are the council's priorities for action?	5
What you can expect from us when you are the subject of an enquiry	6
What does a planning investigation involve?	7
Outcome of the investigation	8
Formal enforcement action and powers	9
Information management	11
Fairness and equality	12
Conclusion	12



## Introduction

The planning system is designed to regulate development and use of land and buildings in the public interest. Enforcing breaches of planning control is an important and necessary part of the planning system. Without effective enforcement, confidence in the council's ability to protect public amenity and the built and natural environment is quickly undermined.

This commitment to planning enforcement is set out in the Government's National Planning Policy Framework, by paragraph 207:

"Effective enforcement is important as a means of maintaining 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. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

The government has published further advice on planning enforcement within its National Planning Policy Guidance:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

The council recognises the importance of planning enforcement within the borough to protect amenity, safeguard its built and natural environment, and uphold local planning policy in the quickest and most effective way.

In doing so, the council aims to provide a consistent and comprehensive approach to planning enforcement based on legislative requirements, government guidance, legal judgements and good practice, which through their collective interpretation shape how decisions are made.

This service is provided within the council's Development Services Team, and consists of two planning enforcement officers, with support from the council's senior planning and enforcement officer. The Planning Enforcement team works with a number of other officers within the council or other public agencies.

The most frequent breaches reported relate to residential properties, although the council can investigate breaches relating to all types of development and uses of land.

As well as responding to unauthorised development, the Planning Enforcement Team also enforces against other related breaches under separate controls, including unauthorised advertisements, works affecting listed buildings and other heritage assets, protected trees and untidy land or buildings. Within this document these are collectively referred to as breaches, and unless otherwise stated, this term refers to the wider enforcement role of the team.

The council has published further guidance on its planning function, including some of the options outlined in this Plan, at the following link:  
<https://www.tewkesbury.gov.uk/planning/>

When receiving an enquiry, the council will have regard to the most effective and timely powers available to investigate and where necessary pursue further actions to achieve its desired outcome. The council has other powers of enforcement in relation to other services

such as environmental health, licensing and building control. Our investigations are often co-ordinated with other services so that enquiries can be referred and action carried out under the most appropriate legislation.

The purpose of this plan is to explain how the council carries out its planning enforcement activities. It sets out what those making enquiries, or the subject of these enquiries, should expect and outlines how the council undertakes planning investigations. A simple flowchart has been appended to this document to give a visual guide as to how enforcement cases are handled and how formal action is taken, and should be read in conjunction with the Enforcement Plan. Please note that it is important to remember that this document should be used as a guide only, and may apply differently according to the particular characteristics and location of the development undertaken or proposed. You should always consider seeking independent advice.

Definitions of some of the technical planning terms used in this document are provided in the following glossary:

<https://www.planningportal.co.uk/directory/4/glossary/category/7/categoryInfo/3>

## What is a breach of planning control?

Development carried out without planning permission is often referred to as a breach of planning control. A breach of planning control is defined in the Town and Country Planning Act 1990 as 'the carrying out of a development without the required planning permission, or failure to comply with any condition or limitation subject to which planning permission has been granted'.

Development is defined in the Town and Country Planning Act 1990 as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"

The following are examples of breaches that would be investigated by the Planning Enforcement Team.

- The unauthorised erection of a building/structure (including outbuildings, fences, satellite dishes)
- A 'material' change of in the use of a property/land.
- Development starting before a 'pre-commencement' condition has been complied with, particularly one relating to the submission of further details for consideration by planning officers.
- Development not in accordance with the approved plans of planning permissions.
- Failure to comply fully with the conditions attached to a planning permission, which could sometimes render the whole permission invalid and therefore works unauthorised. Carrying out works to a listed building without listed building consent.
- Unauthorised demolition in a conservation area.
- Engineering operations, such as raising ground levels or earth bunds
- Unauthorised works to trees protected by a Tree Preservation Order (TPO) or in a conservation area.
- Failure to properly maintain land or buildings so that it affects the amenity of the area.
- Displaying a sign or advertisement without advertisement consent.

The following are not usually breaches that the Planning Enforcement team would investigate or have powers to address:

- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity.
- Boundary, land ownership or trespass disputes, including those issues relating to party walls.
- Breaches of restrictions imposed by deeds and covenants (civil matter).
- Obstruction of a highway or right of way.
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection.
- Parking of a caravan within the curtilage of a residential property as long as it is incidental to the enjoyment of the property, and is not being lived in permanently and separately from the main house.
- Temporary structures/fencing associated with building works
- Where planning permission or other consents are not required (see section 4 below)

In addition, some breaches of planning control are dealt with by Gloucestershire County Council's Planning Enforcement team, as they relate to the specific powers and functions of this Council. These include:

- Waste and mineral developments, including failure to comply with any operational or other conditions imposed on an approved site.
- 'Regulation 3' breaches – those relating to and on land used for County Council functions, for example schools and libraries.
- The depositing of waste materials not in connection with other development (eg works to create an access to a property would normally be dealt with by a District Council). This would also depend on the nature and volume of the deposits (eg household fly tipping dealt with District Council Environmental Health teams)

## When is permission required?

Planning permission and/or other consents are not always required for certain works or uses for reasons including:

- They are not considered to be 'development' - as defined by s55 of the Town and Country Planning Act 1990, as amended
- Some works are considered 'de minimus' where they are of insignificant size or scale.
- Some works and uses are 'permitted development' as defined by the Town and Country Planning (General Permitted Development) Order 2015, as amended. Please note that some permitted development rights may be removed by a condition placed on a planning permission e.g. no fences to the front of the house to retain an open aspect to an estate development.
- Some signs are not considered by advertisements, as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- Some advertisements have 'deemed consent', as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- Some changes of use are not considered 'material', having no significant impact on amenity.
- Some breaches are deemed to be lawful if no action is taken after a specified passage of time, being four years for substantial completion of building works, four years for change of use of a building to a single dwelling house, or 10 years for other breaches. However, if there has been a deliberate attempt to conceal a breach of planning control, the council may still be able to take enforcement action beyond the specified period by obtaining an order from the Magistrates Court.

Development is lawful where planning permission has been given, but only where the works or use have been undertaken in accordance with that permission, including all conditions attached to that consent. Failure to comply with a condition may render the whole permission invalid.

The above examples depend on a large number of factors including type of operation, size, height and uses and the rules often vary according to the different location and individual circumstances. A number of useful guides are available at through the government's planning portal:

[https://www.planningportal.co.uk/info/200130/common\\_projects](https://www.planningportal.co.uk/info/200130/common_projects)

[https://www.planningportal.co.uk/info/200130/common\\_projects/9/change\\_of\\_use](https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use)

The council will provide advice as appropriate, however because of its enforcing role in these matters, it must remain impartial. You are therefore advised to seek independent advice should you require further information relating to your own particular case, in order to avoiding committing a breach of planning or other regulations, and being subject to enforcement action.

Should you wish to have a legal determination as whether any use or operations, actual or proposed, are lawful then you can apply to the council for a Certificate of Lawfulness

[https://www.planningportal.co.uk/info/200126/applications/60/consent\\_types/9](https://www.planningportal.co.uk/info/200126/applications/60/consent_types/9)

If works are classed as 'permitted development' or otherwise lawful, and therefore do not need planning permission, the council would always advise that property owners consult with their neighbours and other interested parties to let them know what you are planning to do.

## How do I report a suspected breach?

The assistance of the general public and Parish Councils is crucial to planning enforcement. Due to the amount of development, both authorised and unauthorised, it is extremely difficult for the council to identify all possible breaches of planning control. The council relies on the general public and parishes' vigilance in identifying potential breaches of planning control. Many enforcement investigations commence following an enquiry from the general public or Parish Council.

The council will respond to all suspected breaches of planning control, except anonymous reports, unless they are of a particularly serious nature, requiring immediate attention.

Enquiries can be made by completing our on-line "Planning infringement or unauthorised development report form":

[https://tewkesbury-self.achieveservice.com/service/Planning\\_infringement\\_or\\_unauthorised\\_development](https://tewkesbury-self.achieveservice.com/service/Planning_infringement_or_unauthorised_development)

The more you can help us the easier it will be for us to respond more quickly. When making an enquiry, please provide us with the following information, so the council can obtain a full picture of the situation:

- A clear description of the alleged breach
- Why you think this is a breach of planning
- A description of the 'harm' being caused e.g. noise, traffic, smells.
- The date the activity started, is it happening now, is it getting worse?
- A specific site address (if it is a field, describe the surrounding area to help identify the exact site).
- The name and contact details of the site owner/occupier/builder/agent, where known

- Your name and contact details.
- Any other information you think would be helpful

All enquiries are dealt with in the strictest confidence and details of those making enquiries will not be made known without their agreement. However, the substance of the enquiries themselves is not confidential. In some cases it may be necessary to rely on evidence from those making enquiries in order to take action and you will need to consider whether you are willing to actively assist the council by collecting evidence and acting as a witness at a planning appeal or in court. Please be aware that the council cannot prevent someone correctly guessing who made the enquiry.

## What you can expect from us when you make an enquiry

The council will endeavour to provide the following service to you:

- The council will assign relative priority to all enquiries, as set out in this section of the Enforcement Plan, in order to focus on most urgent matters first, and make best use of resources. The council aims to investigate, resolve or otherwise conclude all enforcement enquiries as soon as it possibly can.
- Where the enquiry does not relate to planning, either wholly or in part, the council will refer the matter to the relevant council department, with your details, and ask them to keep you updated. Where the matter should be dealt with by another organisation than the council, we will advise you. The council will retain and investigate any part of the enquiry relating to planning, working together with colleagues as appropriate.
- The council aims to acknowledge all enquiries within 48 hours of receipt, naming the assigned

officer undertaking the investigation, and their contact details.

- Where existing investigations require monitoring outside of normal working hours (e.g. breach of condition relating to weekend construction works), officers will endeavour to work flexible hours.
- Where an allegation involves activities on land, you should not undertake surveillance on the occupier, but might update the council on any continuing breaches as you notice them.
- The council will inform all parties of the outcome of any investigation, with reasons within 5 days of the outcome being decided.

## What are the council's priorities for action?

It is not possible to investigate every enquiry with equal priority and intensity. Our resource is directed to breaches that cause the greatest harm to the environment or to residential amenity. To allow quicker and more effective focus on the most serious matters, particularly during peak demand on the service, the council will prioritise its planning enforcement work as follows:

**CATEGORY A - Development causing, or likely to cause, irreparable harm or damage. Investigation to take place as soon as possible, and within 24 hours.**

**This will include:**

- o Development causing or likely to cause serious harm to the public, e.g. involving hazardous substances.
- o Works to listed buildings (demolition/alteration/disrepair)
- o Works affecting sites of (likely) archaeological importance.

- o Demolition in a conservation area
- o Works causing immediate/irreparable harm to protected ecology, including trees covered by a Tree Preservation Order or in a conservation area.

**CATEGORY B - Unless prompt action is taken, there is a material risk of further harm being caused which could be reduced or prevented by early intervention. Investigation to commence within 5 working days. This will include:**

- o Allegations of significant and ongoing harm to amenity
- o Development which would be immune from enforcement within six months.
- o Unreasonable noise and disturbance caused by failure to comply with conditions controlling the operation of development sites
- o Unauthorised works under way but not substantially complete
- o Breaches of condition or non-compliance with approved plans that are integral to the acceptability of the scheme and permission given

**CATEGORY C - Unless action is taken, there is a risk of material harm to the environment or undue harm to residential amenity. Investigation to commence within 10 working days. This will include:**

- o Building works likely to be contrary to that set out in the development plan or other material planning guidance.
- o Developments which are contrary to established countryside constraint policies
- o Other unauthorised activities and use of land causing harm to residential amenity
- o Flyposting

**CATEGORY D - Breaches of planning control causing limited material disturbance to local residents or harm to the environment, which do not come within any of the higher categories, and where a delay would not prejudice the council's ability to resolve the matter. Investigation to take place as soon as resources allow, but The council aim to commence within 15 working days. This will include:**

- o Small scale structures, including sheds and other outbuildings, fences and satellite dishes
- o Unauthorised signs and advertisements
- o Untidy land and buildings
- o High hedges
- o Unauthorised shopfronts
- o Breaches of condition/non-compliance with approved plans causing no serious harm to amenity.

## **What you can expect when you are the subject of an enquiry**

- The council recognises the anxiety that is caused by finding out someone has made an enquiry about alleged development or activity on your land or property. Accordingly the council will treat you fairly, not pre-judge any allegation made against you, and give you the opportunity to respond and explain.
- The council will advise you as soon as possible whether or not it considers a breach has occurred, and if so, what the breach is and what your options are.
- If you dispute that a breach has or is taking place, you have the right to apply for a Lawful Development Certificate to determine the matter.

- Any unauthorised works you undertake are at your own risk, and may be subject to demolition or alteration, including those taken after you have been notified of any breach.
- Where a breach has been identified, The council will seek to work with you and any other responsible person(s) to negotiate an outcome suitable to all parties. The council may decide not to require action be taken to remedy the whole of a breach of planning control. This is known as “under enforcement”. The matter will only be deemed concluded once any works or changes to activity agreed as part of negotiations with the council have been carried out
- Negotiations will not be allowed to delay the consideration of enforcement action where the breach of control causes serious harm to amenity.
- You have the right to make a retrospective planning application to ‘regularise’ the development, however, the council will advise you if it thinks consent is unlikely to be given. This option is strictly without prejudice to any decision on an application. Please note that, where deliberate or intentional unauthorised development has taken place, including following the council making the applicant aware of the breach, it may count against the application.
- The council may decline to determine a planning application where an enforcement notice has already been served and proposals relate to the identified breach.
- Where retrospective applications are made, the council will keep the enforcement matter under review until a decision has been made, any (where approved) applicable conditions are complied with, or (where refused) any remedial actions are undertaken.
- It is the responsibility of the landowner/developer to ensure all other requisite consents are in place.
- The council will clearly identify its requirements and give reasonable time and opportunity for them to be undertaken. Should you not respond, decide not to work with the council, provide us with misleading information, or unreasonably and unnecessarily delay any agreed or requisite actions then the council will have no option but to consider the use of formal powers.
- The council will inform all interested parties of the outcome of any investigation, with reasons, within five days of the outcome being decided.

## What does a planning investigation involve?

### Determining the facts

The priority in any enforcement case is to ascertain the facts of the matter, including the nature and degree of any alleged breach. The council will investigate enquiries objectively and with an open mind, and all claims will remain unfounded until such time a breach is witnessed and evidenced. The council has the following powers to seek further information, if necessary:

- Interview under formal caution – Where it is suspected that an offence has taken place
- s330 Notice – to establish ownership and other interests in the land and property
- Planning Contravention Notice – requiring further information about activities and/or works on land or buildings.

There is no right of appeal against these Notices, and failure to respond fully and accurately, or provide misleading information, is a criminal offence.

## Site visit

Planning enforcement officers have a legal Right of Entry to land, without the owner's permission, where a breach of planning control is suspected. The exception is for the inside of domestic properties, where 24 hours prior notice must be given. It will be considered an offence if anyone wilfully obstructs any officer trying to freely enter the land. Visits may be undertaken without prior notice, particularly where the enquiry relates to the use of land.

The council is committed to ensuring that its officers are able to carry out their work safely and without fear or obstruction. Where appropriate, the council will take legal action to prevent and respond to abuse, harassment or assaults on its officers, by members of the public, and animals within their control. Officers whereabouts are known at all times and emergency contact arrangements are in place for immediate response should any danger present itself.

## Assessment

From the established facts the council will determine whether or not a breach has occurred, the degree of harm caused, and what outcome the council seeks as a proportionate response, in the public interest. Each case will be considered on its own merits, and required outcomes or actions may differ in any two cases even if it appears that the same or very similar breach has occurred.

Where powers other than planning are available and more effective, then the matter may be referred to or approached jointly with other council departments or agencies.

## Expediency

The council's planning enforcement powers are discretionary and action will not be taken simply because there has been a breach of planning control.

Enforcement action should only be taken where the council is satisfied that it is 'expedient' to do so when it has carefully considered all relevant planning considerations, including national and local policies. There is no right of appeal against a decision not to take planning enforcement action.

The term expediency in planning enforcement terms means an assessment by the council as to whether the harm caused by a breach of planning control unacceptably affects the public interest. In making this assessment, the council will gather information regarding the nature and scale of the breach and will then determine whether it unacceptably affects public amenity and / or the built or historic environment. Examples of why it would not be 'expedient' to take enforcement action might include:-

- Planning permission would be likely to be given if applied for
- The breach is a minor or technical and causes no harm to public amenity

Enforcement action should be commensurate with the breach of control to which it relates; this is known as the 'proportionality' test.

## Outcome of the investigation

There are various possible outcomes of a planning enforcement investigation:

### **No breach of planning control has been identified:**

The works or use of the land may be demonstrably lawful, or no robust evidence of a planning breach has been established following thorough investigation.

**Certificate of Lawfulness issued:** Following a successful application to the council, in respect of the works or use under investigation

**Retrospective planning application to regularise the breach:** Where the subject of a planning breach has exercised their right to make an application, that application has been approved, and all conditions complied with, the breach is deemed to have been regularised.

**There is a breach of control but it is not expedient and proportionate to pursue:** Section 8 of this Plan identifies some of the circumstances when the council might not at that time take enforcement action against an identified breach of control. The council will, however, make the land owner aware of the breach and give them the opportunity to rectify the matter. Any outstanding breach will be recorded as a 'contravention', and may be viewable on any future land search, including when the land or property is being sold. We will advise those making the enquiry, why, in these particular circumstances, the council considered that it was not 'expedient' to take further action.

**Compliance with the council's requirements:** Actions required to remedy the breach of control, or other agreed alternative actions, are carried out in full and to the satisfaction of the council, including in certain circumstances, by the council itself.

**Formal enforcement action:** If the matter cannot be resolved to the council's satisfaction, or there is a likelihood of further breaches of control, the council has the powers to take formal enforcement action. The nature of the breach will dictate what enforcement action the council considers expedient and proportionate to pursue.

## Formal enforcement action and powers

Where a breach is proven, the degree of damage or

harm caused is demonstrably unacceptable, and it is expedient and possible to do so, then the council is committed to taking a firm line to make those responsible accountable for their actions and for 'making good' any damage or harm caused.

Formal powers will also be considered to best avoid a breach taking place, where it is imminently suspected.

Under planning legislation, the council has the power to issue a number of Notices, usually on all interests in the land, and not just those directly responsible for committing a breach. Failure to comply fully with a Notice or Order could be considered a criminal offence.

**Enforcement/Listed Building Notice** - An Enforcement Notice will specify the reason(s) why it has been served, the steps required to remedy the breach, and the time period for compliance. The Notice carries a right of appeal. Compliance with an Enforcement Notice will not discharge it; its provisions will remain in force and will be valid should the unauthorised use or specified development re-occur. Enforcement Notices will appear on the council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**Temporary Stop Notice** - Where a breach of planning control is causing serious harm to public amenity and/or the built, natural or heritage environment, and where immediate action is required to stop this harm, the council will issue a Temporary Stop Notice. It will identify what works are to cease, and lasts for 28 days. This Notice will normally be accompanied by an Enforcement Notice, which comes into effect when the Temporary Stop Notice expires. Notices will appear on the council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met

**Breach of Condition Notice** - Where the breach of planning control relates to non-compliance with a condition(s) or limitation(s) on a planning permission, including where permitted development limitations have been exceeded, the council can issue a Breach of Condition Notice. The Notice will specify the steps required to comply with the condition(s) or limitation(s), and the time period for compliance. There is no right of appeal against this Notice. Notices will appear on the council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**Section 215 Notice (Untidy Land Notice)** - Where the appearance or condition of land and buildings is adversely affecting the amenity of the neighbourhood, the council can issue a s215 Notice. The notice will specify the steps required to remedy the condition of the land or buildings and the time period for compliance. The right of appeal against a s215 Notice is directly to the Magistrates Court. The Notice may be revealed on a land search.

**Enforcement Order** - Where the local planning authority believes there has been a 'concealed' breach that would otherwise be immune from enforcement action due to the passage of time, it may apply for an Enforcement Order. The order will set out the steps required to remedy the breach, and the timescale in which to do so. Orders will appear on the council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**S225 (Display of advertisement Notices)** - The display of posters and placards, including for the purposes of 'flyposting' are deemed a criminal offence and must be removed within 48 hours of the local planning authority requiring you to do so. Other signs and advertisements are addressed by a series of notices (depending on the nature of the sign/advertisement) collectively known as s225 notices. Notices will specify

the steps required to comply with its requirements and the time period to do so.

**Hedgerow Replacement Notice** - Where it appears that a protected hedgerow has been removed in contravention of The Hedgerow Regulations 1997, the council may serve a Hedgerow Replacement Notice including specific instructions for the replanting of a hedgerow, with timescales. The flora specified in the noticed is required to be maintained for a period of up to 30 years after the notice has been served. Hedgerow Replacement Notices are effective immediately on service, and usually include a compliance date requiring specified actions to be undertaken before the end of the next available planting season. The right of appeal against a Hedgerow Replacement Notice is directly to the Secretary of State.

**Tree Replacement Notice** - A landowner has a duty to replace a tree which is removed or caused to die, in contravention of a Tree Protection Order (TPO). Where the duty is not complied with, local authorities have powers under section 207 of the Town and Country Act 1990, to issue Tree Replacement Notices (TRNs). These powers are also exercised in a conservation area in contravention of section 211 of the 1990 Act (i.e. without giving the council six weeks' notice) 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. The right of appeal against a Tree Replacement Notice is to The Planning Inspectorate. Serving a TRN does not preclude the council from taking legal action on those responsible for removing or causing a protected tree to die.

**Direct Action (Works in Default)** - Where a Notice has not been complied with, the council has powers to itself undertake the works required by that notice. The council also has powers to undertake action in other circumstances, without a notice being served. The cost of doing so, including a fee for officer and project

management time, would be placed as a charge against the land until such time as fully paid. The council would give the owner of the land an opportunity to undertake works themselves before exercising this option.

Removing the breach does not preclude the council from prosecuting those responsible, where it is appropriate to do so. Further, the council will consider continuing proceedings even when a matter has been resolved prior to court attendance.

**Injunction** – The council may apply to the High or County Court for an injunction to restrain any actual or expected breach of control. This sanction is immediate, and is aimed at avoiding serious breaches before any (further) harm is done, and/or addressing those breaches of control where other powers have not been effective, or where persistent breaches arise. Failure to comply with the requirements of an Injunction will be considered as a contempt of Court, and may result in a custodial sentence.

**Prosecution** – Unauthorised development itself is not usually an offence, however the following breaches of control might be considered to be:

- Failure to comply with the requirements of any notice identified in this plan
- Damage to listed buildings or other heritage assets
- Removal of or damage to trees covered by a Tree Protection Order, all trees within a conservation area, or other protected environmental assets
- The unauthorised display of some signs and advertisements
- Wilful obstruction of, or other offences against, a council officer or appointed representative in the course of his/her duties.
- False or misleading information provided by the recipient of a s330 Notice or a Planning Contravention Notice

For some offences, the council may offer a 'simple

caution' to the responsible parti(es), however should the caution not be accepted the council reserves the right to prosecute. Proceedings may continue even if the breach is latterly resolved, although this would be recognised. The council will apply for costs from the defendant in all successful court proceedings. Where the council suspects that any information provided to the Court by the defendant is false or misleading, including completed means test forms, it will refer the matter to the County Fraud Investigation team for further consideration.

**Proceeds of Crime Act** - Where significant financial gain has or is being accrued as a result of a breach of planning regulations, an application may also be made to the Court for recovery of assets, alongside prosecution. The council would work with a Financial Investigator to identify assets and use powers available to recover these, under the provisions of the Proceeds of Crime Act 2002.

## Information management

The council will request, manage and share its information responsibly, and at all times in line with current and emerging General Data Protection Regulations. Requests for information relating to planning enforcement work will be considered in line with these regulations, including any exemptions laid down under other legislation such as the Data Protection Act.

The council keeps a register of all Enforcement, Breach of Condition, Stop Notices, and Enforcement Orders, providing basic key details, which can be found at the following link: <https://www.tewkesbury.gov.uk/planning>

A copy of all these notices can also be found on line through the Planning Portal, at the following link:

<http://publicaccess.tewkesbury.gov.uk/online-applications/>. Alternatively, a copy can be made available at the council Offices, on prior request. The portal also provides summary details of other enforcement investigations.

The council will work with appropriate media to publicise its work and positive outcomes, to highlight the consequences of failing to comply with planning regulations, to deter others from knowingly doing so.

A report will be presented to Tewkesbury Borough council Planning Committee every month identifying those matters where formal enforcement action has been taken, with an update on progress, as well as outlining general performance and raising any other issues of interest. Officers may also from time to time present reports to committee seeking resolution on particular matters where direction is required. These reports can be found within the planning committee agenda and papers, at the following link: <http://minutes.tewkesbury.gov.uk/mgCommitteeDetails.aspx?ID=249>

## Fairness and equality

The council is committed to ensuring that:

- All persons are treated equally
- Communications with all those involved are in a fair, clear and courteous manner.
- Communications will be in plain English or in the appropriate language or method.
- Any special needs of those involved are met as far as possible, (for example by providing translation services where necessary).
- Help, information and advice will be given where needed.
- Where there are rights of appeal against formal action, advice on the appeal mechanism will be provided.

In carrying out its enforcement activity the council will take into account the interests of all customers, including the general public, business owners, employees and will endeavour to support economic development wherever possible, except where there is significant harm to amenity.

## Conclusion

The latest version of this Enforcement Plan can be found at the following location -

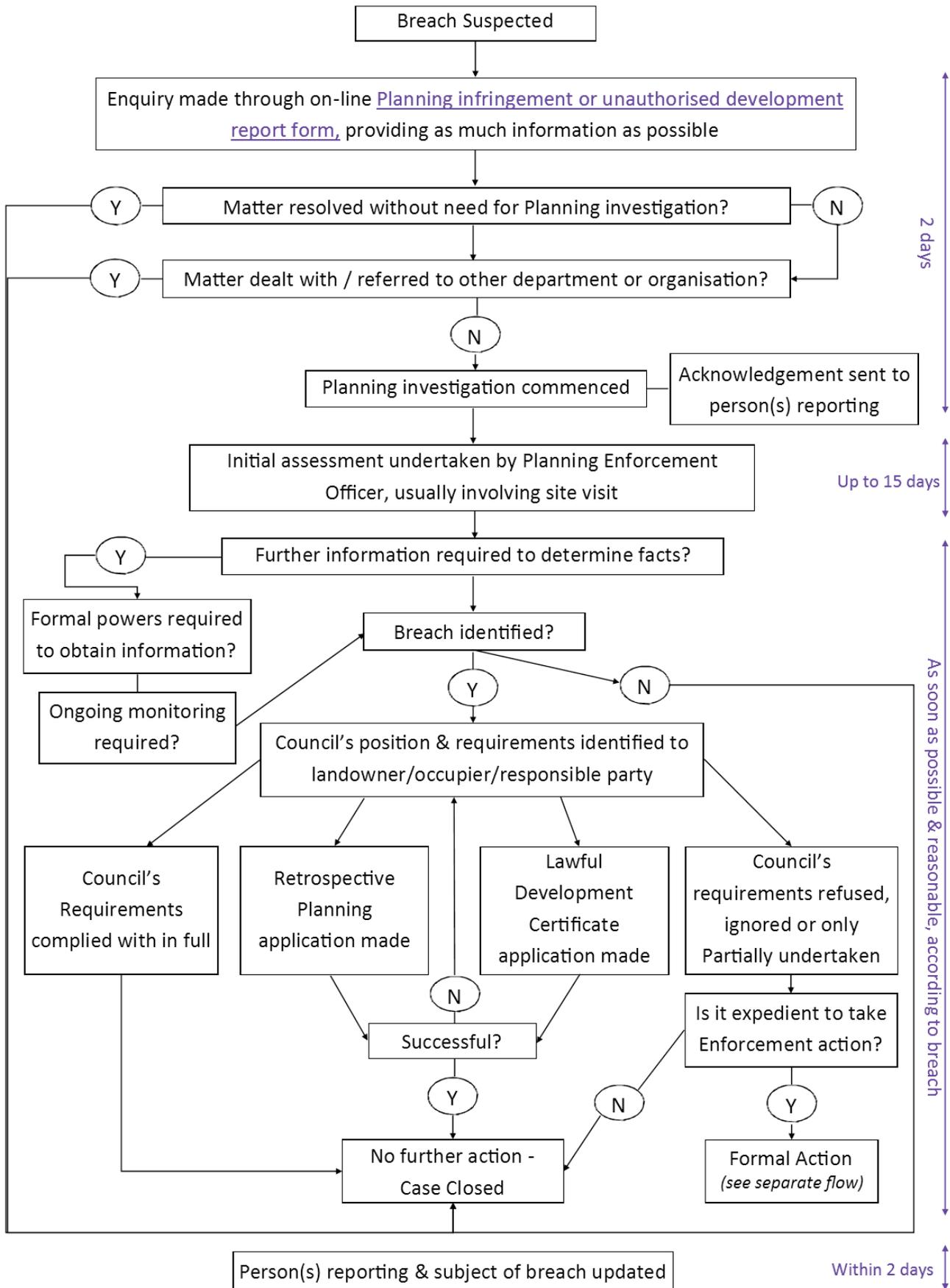
<https://www.tewkesbury.gov.uk/planning> - the plan will be reviewed as and when necessary, either due to changes in the law or any other circumstances which may affect its contents.

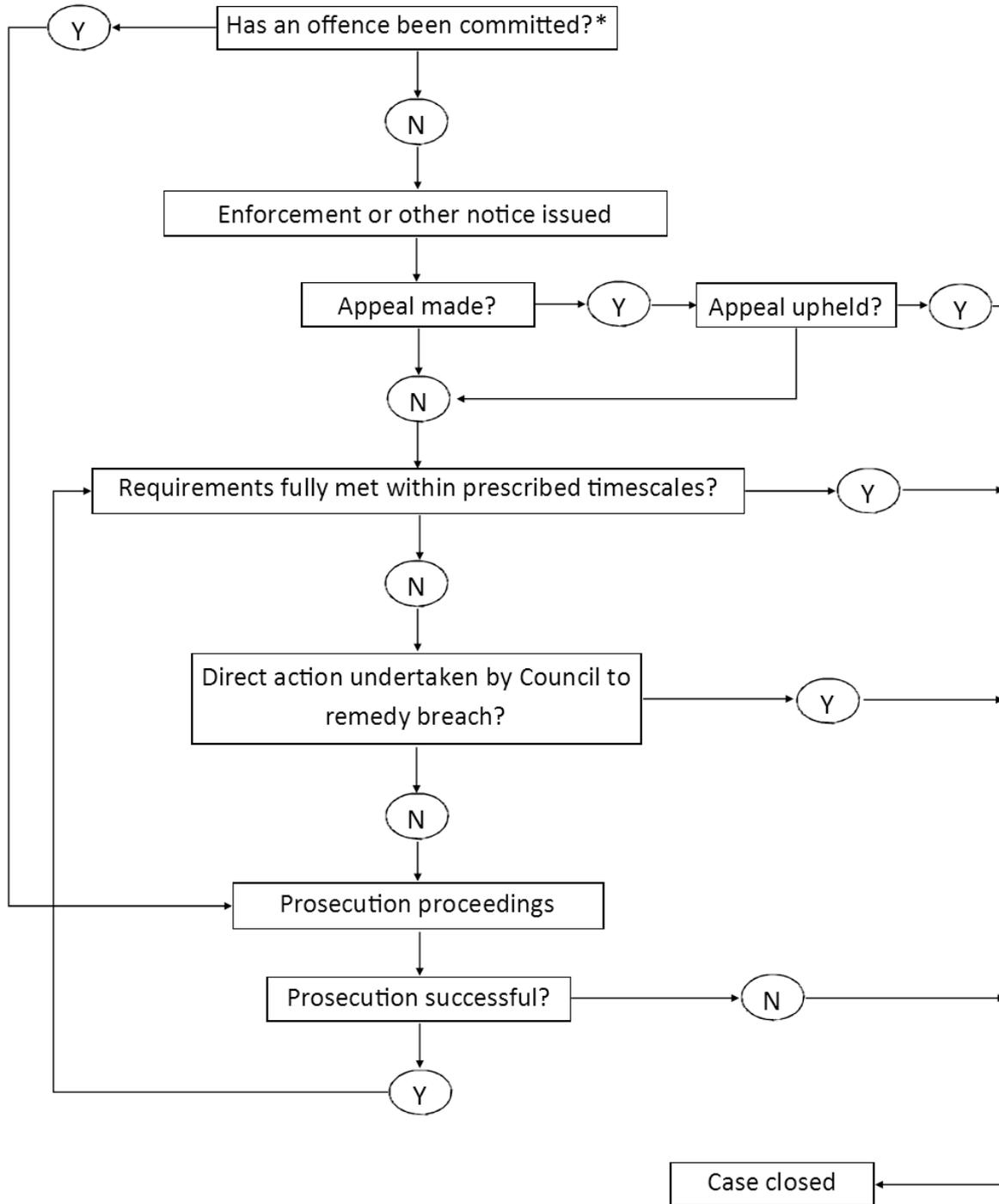
The plan sets out the standards that the council aspires to in responding to reports of breaches of planning and other related controls. The time taken to determine each case will vary depending on the site, the type of breach, and any actions necessary to reach the desired outcome. It also relies in some cases on professional advice and support from other colleagues, including outside of the council. Decisions are made in the context of regularly changing legislation, guidance, and case law. An enforcement investigation can be a lengthy and complex process. However, the council is committed to reaching a conclusion/outcome as soon as reasonably possible.

The council welcomes feedback on our performance, and an opportunity to comment is available by contacting [enforcement@tewkesbury.gov.uk](mailto:enforcement@tewkesbury.gov.uk)

The council are committed to providing an effective and efficient planning enforcement service. However, should you not be satisfied with the handling of your enquiry, in the first instance please contact the council's development manager. If you remain dissatisfied, the council has a formal complaints procedure which can be found on the council's website at:

<http://tewkesbury.gov.uk/index.aspx?articleid=1897>





\* A breach of planning control is not a criminal offence, however failure to comply with an Enforcement Notice is. Some actions, eg damage to a listed building are criminal offences without need to serve a Notice—see Section 10 of the Planning Enforcement Plan

Tewkesbury Borough Council  
Tel: 01684 295010

