

FLINTSHIRE COUNTY COUNCIL

PLANNING ENFORCEMENT POLICY

January 2026

1.00 Introduction to Planning Enforcement in Flintshire

- 1.01 Flintshire County Council is committed to maintaining high standards of development across the County, ensuring that planning regulations are followed and that the integrity of the built and natural environment is preserved. Effective planning enforcement plays a crucial role in protecting the quality of life for residents, safeguarding the environment, and maintaining public trust in the planning system.
- 1.02 Planning enforcement is the process of investigating whether a breach of planning control has occurred and, if so, assessing whether it is expedient to take formal enforcement action to remedy the breach.
- 1.03 A breach of planning control is defined in Section 171A of the Town and Country Planning Act 1990 as:
- The carrying out of development without the required planning permission; or
 - Failing to comply with any condition or limitation subject to which planning permission has been granted (this includes any contravention of the limitations on or conditions belonging to any permitted development rights granted under the Town and Country Planning (General Permitted Development)(Wales) Order 1995 (as amended))
- 1.04 Planning Policy Wales and the Development Management Manual sets out that 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.
- 1.05 This Policy outlines how the Council will approach planning enforcement, providing a clear framework for identifying, investigating, and addressing potential breaches of planning control. Our approach is transparent, proportionate, and consistent, focusing on resolving issues in a fair and balanced way. We aim to work collaboratively with landowners, developers, and local communities to achieve compliance wherever possible, while ensuring that enforcement action is taken when necessary to uphold planning standards.

2.00 Principles of Enforcement Action

Underlying the Policy are the key principles of:

- ***Expediency*** - Appropriateness of any action in relation to the risks and the harm involved
- ***Consistency*** - Applying a similar approach in similar circumstances to achieve similar ends.
- ***Transparency*** - Making it clear to complainants and contraveners what is expected of them and what they should expect from the Council.
- ***Focus*** - Applying the right priority and seeing the action through to the desired result.

3.00 How to Report a Potential Breach of Planning Control

- 3.01 Before making an enforcement enquiry/complaint, you may wish to refer to the Planning Portal website to check whether the development you are concerned with is Permitted Development (development that does not require a planning application). This can be done using the following links:

<https://www.planningportal.co.uk/wales/do-you-need-permission/your-responsibilities/planning-permission/permitted-development-rights>

and/or

<https://www.gov.wales/planning-permission-common-projects>

- 3.02 You can also check via the Citizen Portal on the Council's website whether the development benefits from planning permission using the following link:

<https://www.flintshire.gov.uk/en/Resident/Planning/View-and-comment-on-planning-applications.aspx>

- 3.03 The easiest way to report a potential breach of planning control is to complete the Council's online form that can be found on our website via the following link:

<https://digital.flintshire.gov.uk/EFORMS/Eform/Create?service=Planning%20-%20Enforcement#crmTab1>

- 3.04 Please note that the resources available to Flintshire County Council to investigate alleged breaches of planning control are limited. We therefore will not investigate anonymous enquiries/complaints and all complainants must provide their name, address and either a phone number or email address.

- 3.05 The source of any enquiry will not be disclosed by the Council during the investigation stage. However, you should be aware that in some cases where formal enforcement action is necessary the source of the enquiry may become apparent and where the process leads to Court proceedings, the Council may be obliged to disclose the source of the complaint.

- 3.06 In order to help us investigate any enquiry, please provide as much detail as possible including (but not limited to) the following:

- The address of the land or property where the alleged breach of planning control has occurred,
- The nature of the development or activity that has taken place,
- An indication as to when the development took place or activity started,
- A brief explanation of the harm you consider is being caused by the development.

If your enquiry relates to an alleged unauthorised change of use, we will require your help to provide evidence of the level and nature of activity involved. In order to substantiate your complaint it will be helpful to provide a log of the activities that you witness, including times and dates, over a minimum period of two weeks. Without that assistance it may be difficult to build sufficient evidence to demonstrate whether a breach has occurred. Providing detailed information and supporting evidence ensures a more efficient investigation. Accurate reporting is essential, as any false information could impact the investigation's success.

3.07 What We Will Investigate and What We Can't Investigate

Planning enforcement can only investigate activities that might constitute a breach of planning control. Some matters fall outside of the scope of planning enforcement and are either dealt with under different regulations or are considered non-planning issues. The following table, whilst not exhaustive, provides further details on what we will investigate and what we cannot investigate:

	
Unauthorised Development • <i>Building works or changes of use without planning permission or</i> • <i>Building in a manner that does not comply with approved plans</i>	Boundary or Ownership Disputes • <i>These are civil matters between landowners and not planning issues</i>
Breaches of Planning Conditions • <i>Failing to comply with conditions attached to a grant of planning permission</i>	Party Wall Disputes • <i>Covered by the Party Wall Act and not planning legislation</i>
Unauthorised Adverts/Signs • <i>Erecting signage without proper consent</i>	Covenants or Private Legal Agreements • <i>Breaches of deeds or covenants are private legal matters</i>
Works to Listed Buildings Without Consent • <i>This is a criminal offence. Includes internal and external works/alterations</i>	Dangerous Structures • <i>Covered by Building Control/Regulations and not planning legislation</i>
Demolition in a Conservation Area	Obstructions in the highway • <i>This is a police matter and not covered by planning legislation</i>
Untidy Land • <i>where the condition of the land or buildings adversely affects the amenity of the area</i>	Noise, Light or Odour Nuisances • <i>Covered by Environmental Protection and should be reported to the Community and Business Protection Team</i>
Non-compliance with Enforcement Notices potentially by prosecution through the Courts.	Fly Tipping/Litter Accumulation • <i>This is a matter for the Council's Streetscene Service</i>

Felling of Protected Trees by virtue of a Tree Preservation Order or their location in a Conservation Area	Felling of Non-protected Trees which should be reported to Natural Resources Wales
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- 3.08 In addition to the above, the Council cannot take action until a breach has actually occurred. This means the Council is unable to take enforcement action against something that might happen in the future.

4.00 Developments Immune from Enforcement Action

- 4.01 In accordance with planning law, certain breaches of planning control become immune from enforcement action after a specified period. These are:

- Four years for building, engineering, or mining operations
- Four years for the change of use of a building to a single dwellinghouse
- Ten years for most other breaches, including breaches of planning conditions

Breaches that do not involve development, such as Listed Building violations or untidy properties, do not accrue immunity.

5.00 Prioritisation of Cases

- 5.01 Each year, the Planning Department receives a high volume of enquiries in relation to alleged breaches of planning control. With limited resources available to investigate these, they will need to be prioritised in order of their importance and effect into four distinct categories. They are:

Priority 1 (Urgent):

An alleged breach which is ongoing and causing severe irrevocable damage to an irreplaceable asset and therefore requires immediate attention.

Examples:

- ongoing demolition of a Listed Building
- ongoing demolition of a building within a Conservation Area
- ongoing felling of protected trees
- unauthorised development which is, owing to the passage of time, approaching immunity from enforcement

Priority 2 (High):

An alleged breach which requires prompt attention because it has caused irrevocable damage to a special designated asset but it not ongoing and/or amounts to unauthorised development in sensitive areas i.e. Green Wedge, Conservation Areas or developments of such a scale that results in unacceptable harm to amenity.

Examples:

- Unauthorised alteration to a Listed Building which is not ongoing
- Breach of Condition which has persisted without interruption for a significant period of time
- Changes of Use (substantial and/or contrary to planning policy)

Priority 3 (Moderate):

An alleged breach which is having an adverse impact on amenity or located within a particularly prominent location.

Examples:

- Advertisements
- Significant domestic extensions, especially those of 2-storey, that would be compliant with planning policy
- Front walls/fences and other means of enclosure that are likely to have an impact on highway safety
- Minor Commercial Developments that would be compliant with planning policy

Priority 4 (Low):

An alleged breach which is causing little harm to public amenity, the environment or the health & safety of the public.

Examples:

- Minor domestic breaches such as garden sheds, radio antenna, small extensions, rear/side walls/fences
- Very minor changes of use that doesn't alter the character of the area
- A minor deviation from a planning condition that does not impact on the development's overall acceptability

5.02 While all reports of alleged planning breaches will be recorded, those that do not meet priority status will be investigated if and when workloads allow.

5.03 Investigations will be undertaken having regard to the Welsh Governments' Planning Performance Framework <https://www.gov.wales/sites/default/files/publications/2018-12/planning-performance-framework-indicators-and-targets-in-detail.pdf>

6.00 Timeframes for Investigation

6.01 We will aim to acknowledge your enquiry within 5 working days of the date on which the enquiry is made.

6.02 Depending on the complexity and nature of the issue, planning enforcement cases can take a considerable time to resolve. The Council aims to investigate 80% of Priority 1 and Priority 2 cases within 12 weeks. Priority 3 cases and Priority 4 cases and/or cases which are complex or lacking in evidence may take more than 12 weeks to investigate.

- 6.03 We understand that complainants will want to understand where their enquiry is up to and so we will aim to provide complainants with updates at key points during investigations, as and when they become available. The patience of complainants is therefore greatly appreciated, as answering regular requests for updates takes officers away from the task of investigating alleged breaches.
- 6.04 Updates will be provided by email or telephone, depending on the preference of the complainant. If a case is generating significant local interest, updates may alternatively be provided on the Planning Citizen Portal on the Council's website. The Council aims to respond to enquiries within 10 working days of their receipt.

7.00 How We Will Deal With Your Enquiry

- 7.01 We will aim to ensure that 80% of enforcement investigations reach one of the following 6 milestones within 12 weeks of receiving the enquiry.

1. Establish that the development does not require planning permission.

Some changes of use and building works are not classed as development or are permitted by the Town & Country Planning (General Permitted Development) Order 2015. Therefore, they do not require planning consent and the Council has no control over the development.

2. Achieve a resolution to an identified breach of planning control by negotiation without the need for formal enforcement action.

3. Secure the submission of a retrospective planning application aimed at resolving the breach of planning control.

Where a retrospective planning application is submitted, the case officer will monitor the outcome of the application. Where a retrospective application is approved, normally there will be no further action necessary and the case will be closed. Where a retrospective planning application is refused, the case officer will continue to seek to resolve the breach of planning control, either through further negotiation or formal action.

4. Establish that the time limit has passed for the Local planning Authority to take action against the breach of planning control.

Section 171B of the Town and Country Planning Act sets out that a breach of planning control becomes immune from enforcement action:

- 4 years after the substantial completion of building works or engineering operations (referred to as operational development);
- 4 years after the unauthorised change of use of a building to a single dwelling house (this includes flats);
- After 10 years for any other breach of planning control (essentially other changes of use or failure to comply with the requirements of a condition attached to a planning permission).

After these periods of time, the development becomes lawful. However, where there has been deliberate concealment of a breach of planning control, local planning authorities may apply for a planning enforcement order to allow them to take action after the time limits in section 171B have expired.

5. Determine that it is not expedient to take action

The Town and Country Planning Act sets out that it is not an offence to develop land without planning permission. National guidance also sets out that a Local Planning Authority should not take formal action against unauthorised development solely to remedy the absence of a planning application. Enforcement action should only be taken when it is expedient to do so and should be proportionate to the breach. There will therefore be instances where acceptable forms of development that cause no harm to its surroundings (taking into consideration local and national planning policy and all other material planning considerations) are carried out without the benefit of planning permission. In these circumstances, it is not likely to be expedient to take enforcement action, even if the persons responsible fail to take steps to remedy the breach of planning control. However, in instances where retrospective planning permission would only be granted for the development subject to conditions, or where planning permission would not be granted, it is likely to be considered to be expedient to take enforcement action.

6. A formal Notice is issued.

There are a range of formal enforcement powers available to the Local Planning Authority and these are set out in the following table. The formal action taken will depend on the circumstances of each case.

Enforcement Power	Description	Action/Outcome
Planning Contravention Notice (PCN)	Where a PCN is required it is served early on, usually after a complaint, to gather information on the nature of the development and those with an interest in the land.	Helps to understand the details of the development and the parties involved.
Notice under S. 330 (Town and Country Planning Act 1990)	An alternative way to establish information about interests in land and other relevant details.	Assists in gathering information about landownership and related interests.
Enforcement Warning Notice (EWN)	Served when an unauthorised development could potentially be made acceptable through the	Encourages submission of a planning application, where appropriate, to regularise the development.

	imposition of conditions if a planning application is submitted.	
Section 215 Notices	Issued when the condition of land or a building severely affects the amenity of an area, requiring the owner or occupier to remedy the condition. Non-compliance is a criminal offence. The Council can also enter the land to carry out the work and recover costs in the event of non-compliance.	Requires the owner to improve the condition of the land or building to protect amenity. Failure to comply can lead to further action.
Breach of Condition Notice (BCN)	Used when conditions applied to a planning permission are not being complied with. There is no right of appeal against this notice.	Requires compliance with specific conditions attached to a planning permission.
Enforcement Notice (EN)	The standard method for remedying unauthorised development. There is a right of appeal against the notice.	Requires cessation of unauthorised development or removal of structures. The recipient may appeal to Planning and Environment Decisions Wales (PEDW).
Hedgerow Removal Notice (HRN)	Issued when a protected hedge has been destroyed, requiring the hedge to be replanted.	Compels replanting of the hedge to restore the environment and protect the amenity.
High Hedge Remedial Notice	Under the Anti-Social Behaviour Act, issued when a high hedge affects the amenities of a residential property. Requires the hedge to be cut down to a specified height.	Orders the cutting down of a high hedge to a specified height to prevent harm to amenity.
Stop Notice	Used in extreme cases when a breach of planning control is causing significant harm. Can be issued in	Immediately stops harmful activity or development. Compensation may be payable if the Stop Notice is successfully challenged.

	conjunction with an Enforcement Notice.	
Temporary Stop Notice	Similar to a Stop Notice, but it takes immediate effect upon display on site, lasting up to 28 days. Issued when the activity needs to cease immediately due to its impact on amenity, environment, or safety.	Ceases the activity immediately to allow time for investigation and a decision on possible further action.
Injunction	A court order to prevent an activity or operation from continuing. Non-compliance with the injunction is a criminal offence.	Prevents further harmful activities from occurring. Failure to comply may result in legal consequences.
Prosecution (Adverts and Listed Buildings)	Prosecution for unauthorised advertisements or works on Listed Buildings.	Legal action leading to potential prosecution with fines or penalties.
Default Powers (Direct Action)	Allows the Council to enter the land and take necessary action to secure compliance when enforcement notices are in effect. This is used only in extreme cases. The Council seeks to recover all costs incurred.	Direct action to remedy the breach. Costs of action recovered from the owner.

7.02 Please refer to the flow chart at appendix 1 for an overview of the enforcement investigation process.

8.00 Site Visits

8.01 A Site Visit is not always required for every complaint and there is no legislative requirement to do so, however the majority of complaints would require an on-site inspection due to the nature of the alleged breach of planning control.

8.02 In order to make the most efficient use of limited resources, site visits may be scheduled to in geographical groupings. Complainants may help expedite the process by submitting detailed evidence that reduces the need for a visit i.e. photographs, plans and maps identifying the site.

9.00 Outcome of Investigation

Once an investigation is complete, the Council will determine the appropriate action and the complainant will be advised accordingly.

10.00 Appeals

Most statutory notices issued by the Council can be appealed (exceptions include Breach of Condition Notices and Stop Notices). Appeals are made to PEDW or in some cases, to the Magistrates' Court. The recipient can challenge the Notice through the appeal process, delaying enforcement action until the appeal is resolved.

11.00 Further Information

11.01 Review

This Policy will be reviewed every 5 years to ensure it reflects any potential changes in legislation or fluctuations in demand in service and the resources available to deliver the service.

11.02 Complaints Procedure

If you consider that we have not followed the procedures and policies contained in this document, information about the Council's complaints procedure can be found on the Council's website via the following link:

<https://www.flintshire.gov.uk/en/Resident/Contact-Us/Concerns-and-Complaints.aspx>

11.03 Planning Policy/Guidance

Relevant planning policies and guidance that will inform the basis upon which decisions as regards the expediency or otherwise of enforcement action will be made can be found on our website or via the following links;

- Flintshire Local Development Plan – Written Statement
<https://www.flintshire.gov.uk/en/PDFFiles/Planning/Examination-Library-Documents/FINAL-LDP-Written-Statement-English.pdf>
- Flintshire Local Development Plan – Proposals Maps Constraints Map
<https://flintshire.opus4.co.uk/planning/localplan/maps/constraints2023#/center/53.2177,3.1601/zoom/11/baselayer/b:31/layers/annotations:0,o:9630,o:9632,o:9633,o:9634,o:9635,o:9636,o:9637,o:9638,o:9639,o:9640>
- Flintshire Local Development Plan – Constraints Map
<https://flintshire.opus4.co.uk/planning/localplan/maps/constraints2023#>
- Supplementary Planning Guidance
<https://www.flintshire.gov.uk/en/Resident/Planning/Supplementary-planning-guidance.aspx>

11.04 Pre-Application Enquiries

The Council is committed to working with applicants to ensure that their proposals comply with planning regulations. We encourage you to take advantage of our Pre-application Planning Advice service. Full details of this service, including how to request advice, can be found on the Council's website via the link below;

<https://www.flintshire.gov.uk/en/Resident/Planning/Pre-application-Planning-Advice.aspx>

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