

Enforcement Notices

It is not illegal as such to do works or change the use of something without the necessary planning permission but if you are discovered you may be served with a planning enforcement notice.

Planning Enforcement is a process which generally starts with the Local Planning Authority (LPA) making contact following a possible breach of planning. Initially this may be a request from the LPA for the submission of a planning application to legitimise the development in planning terms. Alternatively, it may be that the breach has occurred long enough for it to be immune from enforcement action.

The actions by the applicant could therefore take the form of a retrospective planning application regarding the development that has occurred or the submission of a Certificate of Lawful of Existing Use or Development (CLEUD) – see Acorus Information Sheet 3. A retrospective application will be a full planning application in respect of the development and will be considered in light of the prevailing planning policy on the basis that the development has not taken place. If a CLEUD can be submitted, such an application will be considered and determined upon the facts of the case of the development that has occurred.

Planning Contravention & Enforcement Notices

A Planning Contravention Notice is served by the Council when they are seeking information regarding ownership and site details and specific details regarding the presumed breach of planning. It is a legal requirement to complete the notice with correct information. On receipt of the Planning Contravention Notice the Council will then make a judgement if a breach of planning has occurred and what action to take. If there is an obvious breach of planning and you are not prepared to remove the structure, or cease the use, an enforcement notice will almost certainly follow.

Enforcement Notices will outline the breach, the land that it applies to and the steps the Local Authority require you to take. There will be a date the notice takes effect and a date for compliance, normally one to six months after the notice takes effect.

Appealing Notices

You can appeal an Enforcement Notice but this must be done before it takes effect, which will often be only 28 days from service of the notice (not six months like normal appeals). With enforcement appeals you can appeal on several grounds ranging from; 'I should be given planning permission', 'the breach hasn't occurred', 'it occurred too long ago' or 'the steps required are excessive'. You can even appeal the time limit imposed to remedy the breach.

The enforcement notice 'sits' on hold until the appeal is dealt with, the decision notice being the new date the enforcement notice takes effect.

Given the time constraints and the options available, it is critical you seek the right advice regarding your options. An Acorus Planning Consultant will be able to outline your options and assist with any procedures.



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