

Planning Enforcement Statement

Introduction

As the local Planning Authority, we have a duty to ensure developments are in line with the latest planning guidance and regulations and the details of any planning permission we have granted.

We will look into all reports of breaches of planning control and where it is confirmed, assess the level of planning harm to determine our next steps. This is so we can prioritise and intervene more quickly on cases that are causing or have the potential to cause significant planning harm.

Our approach is to work positively and constructively with anyone responsible for a breach and where the development is causing significant planning harm, agree reasonable remedial options. It is not to punish everyone that carries out inappropriate or unauthorised work.

We are grateful to those who report potential breaches as it helps us in our role to protect the district from planning harm, though it's important to note that all investigations are carried out on behalf of the district council, rather than those reporting them or any third parties.

You can find links containing more details on the legal and national policy that we work to at the end of this document.

Mission Statement

We will investigate breaches of planning control in a timely manner and take effective action in the public interest where unacceptable planning harm is identified.

We will do this by

- Prioritising cases with the greatest planning harm.
- Making decisions in each case in accordance with planning law, national policies, guidance and the adopted development plan.
- Only intervening when in our view action is necessary and proportionate given the scale of the planning harm.

We do this to

- Ensure the integrity of the planning system and decision-making process.
- Support our local communities and protect them from inappropriate development.
- Support the objectives set out in councils' Corporate Plans.

Our commitment

- We will acknowledge all reports of alleged breaches of planning control within two working days.
- We will prioritise the cases with the potential to cause the most planning harm.
- We will aim to complete our investigations and decide on what action to take within six weeks of a case being considered, in 80 per cent of our cases.
- We will notify those reporting suspected breaches of the outcome of the investigation in writing once it has been concluded.

What we will /will not do

- We carry out our investigations on behalf of the council, not on behalf of the those reporting a breach or any third parties – who we are very grateful to for being our eyes and ears on the ground.
- Formal enforcement action is at our discretion.
- We cannot accept anonymous information directly. Anyone wishing to report a suspected breach and remain anonymous needs to approach their local district councillor or parish council representatives to do this on their behalf.
- For data protection reasons, we cannot provide updates on ongoing cases, even to those reporting suspected breaches.
- Unless a suspected breach relates to a listed building, we can only consider taking action against building work that has taken place in the last four years.
- We cannot take formal action against the following if they've been in place for more than 10 years:
 - Material changes of the use of land
 - Breaches of planning conditions
 - New dwellings built without planning permission
- We cannot get involved in neighbour disputes.
- We cannot consider reports that are not planning issues, such as:

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| <ul style="list-style-type: none"> • Obstruction of a highway or public right of way • Parking of commercial or other vehicles on the highway in residential areas or on grass verges | <p>These matters are either subject to Oxfordshire County Council controls or if there is a highway safety issue can be reported to the police</p> |
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| <ul style="list-style-type: none"> • Trespass on land • Deeds and covenant restrictions • Boundary disputes | <p>These are private matters not dealt with under planning legislation. Details of the Party Wall Act 1996 can be found on line at; https://www.gov.uk/party-wall-etc-act-1996-guidance. Any advice on civil matter should be sought from a solicitor, or the Citizens Advice Bureau.</p> |
| <ul style="list-style-type: none"> • Clearing land of hedges, bushes or undergrowth | <p>Unless subject to Ancient Hedgerows Regulations 1997. Details can be found at https://www.gov.uk/countryside-hedgerows-regulation-and-management</p> |
| <ul style="list-style-type: none"> • Internal works to a non-listed building | <p>Structural works may be subject to building control regulations. The councils' building control team can be contacted at: http://www.southoxon.gov.uk/services-and-advice/planning-and-building/building-control</p> |
| <ul style="list-style-type: none"> • Parking a caravan within the curtilage of a residential building provided its use is incidental or ancillary to the main dwelling. | <p>In most cases caravans are not classed as buildings and therefore it is their use that is subject to planning controls. However, if you are in any doubt contact the planning department for advice</p> |
| <ul style="list-style-type: none"> • Insertion of additional windows in residential dwellings. | <p>Once a building has been occupied windows may be inserted into existing walls provided there is not a planning condition to prevent the insertion of additional windows or a restriction set by permitted development rights</p> |

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| <ul style="list-style-type: none">• Health and safety issues including noise and activity on building sites | These matters are ordinarily the responsibility of the Health and Safety Executive. They can be contacted at: http://www.hse.gov.uk/contact/contact.htm |
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Reporting an alleged breach of planning control

Before making an allegation

- Check the council's Planning Permission Register (links below) to see if planning permission has recently been granted for the development.

South Oxfordshire District Council

<https://www.southoxon.gov.uk/south-oxfordshire-district-council/planning-anddevelopment/comment-on-planning-applications/find-and-comment-on-a-planningapplication/>

Vale of the White Horse District Council

<https://www.whitehorsedc.gov.uk/vale-of-white-horse-district-council/planning-anddevelopment/comment-on-planning-applications/find-an-application-and-comment/>

- Have all the details needed to hand - location including the address and post code or grid references, nature and scale of alleged breach
- Read our privacy statement to understand how we will process and protect people's personal data.
- Bear in mind that investigations are on behalf of the district council and not those reporting alleged breaches

We can only accept reports through our online form as it ensures we have the minimum information needed to consider the matter. Anyone unable to access the online form can contact Customer Services for advice on how to report a suspected breach.

We may need further information to aid our investigations, so it is important contact details are provided.

Privacy Statement

The information we collect is for the purposes of investigating an alleged breach of planning control.

We need to collect this information:

- To maintain accurate records of suspected breaches
- In case we need further information to aid our investigation
- To inform those reporting alleged breaches of the outcome of our investigations

Reporting a suspected breach to us constitutes explicit consent for us to process the data for this purpose.

We will keep all personal data secure within our organisation, but we may also disclose information in certain circumstances outside the organisation. We will only do this if the law allows this and it is in accordance with the contracts we have with these organisations. This includes requirements to keep all personal data secure.

Please see further details about the councils' privacy policies using the links below:

South Oxfordshire district Council

<https://www.southoxon.gov.uk/south-oxfordshire-district-council/about-the-council/privacy/privacy-policy/>

Vale of the White Horse District Council

<https://www.whitehorsedc.gov.uk/vale-of-white-horse-district-council/about-the-council/privacy/privacy-policy/>

What happens when we receive a report of a breach?

- We will acknowledge receipt of the form within two working days.
- We will review the information provided and if there is a breach of planning control, we will triage the case to assess the level and scale of planning harm using the process set out in Appendix 1 and whether it meets the threshold for a site visit.
- If the breach exceeds our threshold, an officer will carry out a site visit and any further investigation necessary in accordance with our site visit priorities (see below).
- Cases under the threshold will be assessed without a site visit.
- It can take many weeks to investigate and resolve a planning enforcement case. e.g., there is a statutory three-week period if we serve a Planning Contravention Notice and there is an eight- or thirteen-week period for consideration should the developer decide to submit a planning application part way through the enforcement investigation.

Please see the flowchart at the end of this document that illustrates the enforcement investigation process.

Site visit priorities

Priority 1

Site visit within 48 hours

- Permanent damage to the environment e.g. demolition or significant alteration to a listed building
- Unauthorised works to a protected tree (by Preservation Order or planning condition) or qualifying trees in a conservation area.

Priority 2

Site visit within 10 working days

- Less immediate but harmful development with potential to escalate e.g. buildings part constructed and works in progress
- Major development site building works just commenced
This does not include land clearance of shrubbery etc
- Development within 12 months of immunity

Priority 3

Site visit within 20 working days

- Other breaches likely to remain stable e.g. development that has been completed
- Non-compliance with planning conditions
- Display of advertisements unless details given give rise to concerns about highways safety
- Breaches of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) known as PD rights.

We will not provide progress updates on live investigations

There are several reasons why we will not provide updates:

- We have a duty under the Data Protection Act 2018 and UK General Data Protection Regulations to protect the personal data for the person responsible for the breach and the person reporting it.
- The information is likely to be exempt from releasing under the Freedom of Information Act 2000/Environmental Information Regulations 2004 whilst live investigations are ongoing.
- The need to maintain confidentiality and impartiality while we investigate live cases and divulging information could prejudice this.

This includes providing updates on live cases on our websites, which are no longer available. We can and will however inform those that report a perceived breach the outcome of the investigation.

Enforcement Register

We are legally required to maintain an Enforcement Register. This Register contains details of formal notices served including the address, the breach identified, the date for compliance and when the notice was complied with. Notices will only be removed from the Register if they are formally quashed at appeal or by the courts or withdrawn by the council.

All notices remain part of the planning history. Please follow the links on the next page to view the registers.

South Oxfordshire District Council

<https://data.southoxon.gov.uk/ccm/support/Main.jsp?MODULE=EnforcementNoticeCriteria&TYPE=EnforcementNotice>

Vale of the White Horse District Council

<https://data.whitehorsedc.gov.uk/java/support/Main.jsp?MODULE=EnforcementNoticeCriteria&TYPE=EnforcementNotice>

Possible outcomes of our investigations

No breach

We will not take any further action if we establish there hasn't been a breach of planning control.

Voluntary compliance

This is where the person responsible for the confirmed breach agrees to stop/remove the unauthorised work or submits a retrospective application that is approved. In this situation we will not take any further action.

Not expedient

Where there has been a confirmed breach of planning control, but the level of planning harm is assessed to be low or officers are satisfied planning permission would be granted without conditions, no further action will be taken.

Lawful due to the passage of time

This is where a confirmed breach of planning control has been in place for a long time and has become lawful. In this situation we cannot take any further action.

Serving an Enforcement Notice

An Enforcement Notice will clearly state:

- The matters that constitute a breach of planning control
- The steps required to remedy the breach of planning control
- The date by which the steps to remedy the breach must be completed
- The process for appealing the notice

Serving a Breach of Condition Notice

This will require the person responsible to comply with a condition that has been made through granting planning permission. There is no right of appeal to this notice.

Serving a Stop or Temporary Stop Notice

These are used to stop unacceptable activity on land. This can only be served in conjunction with an Enforcement Notice referred to above. It expires after 28 days.

Serving a Section 215 Notice (Untidy land)

These notices require the person responsible to properly maintain land or buildings. They will set out what the issue is, what the person needs to do and the timeframe to comply. Appeals against these notices can only be considered by the Magistrates Court.

Contacting the person responsible

We will not contact the person responsible if we're able to assess reports of perceived breaches of planning control without disturbing them and where we find one has not occurred.

If we contact anyone about their development or activity, it's to work with them to resolve any concerns. This could be an unannounced site visit, or by telephone or letter.

Powers of Entry

We have legal powers to enter land and/or premises to undertake our official duties, and the wilful obstruction of an officer exercising a right of entry is a criminal offence. On entry we will always identify ourselves and can provide written authority. We will give twenty-four hours' notice before visiting someone's home.

- We will ask for information to understand the nature of the development undertaken.
- We may need to inspect, measure and take photos.
- We will consider the development or activity on its merits against planning law and local and national planning policies and guidance.
- If we confirm a breach of planning control has taken place that would not be granted planning permission and causes planning harm, we can take formal action.
- We will always provide information on what the options are to resolve any breaches identified.
- We would normally give people the opportunity to remedy any breach before taking any formal action.

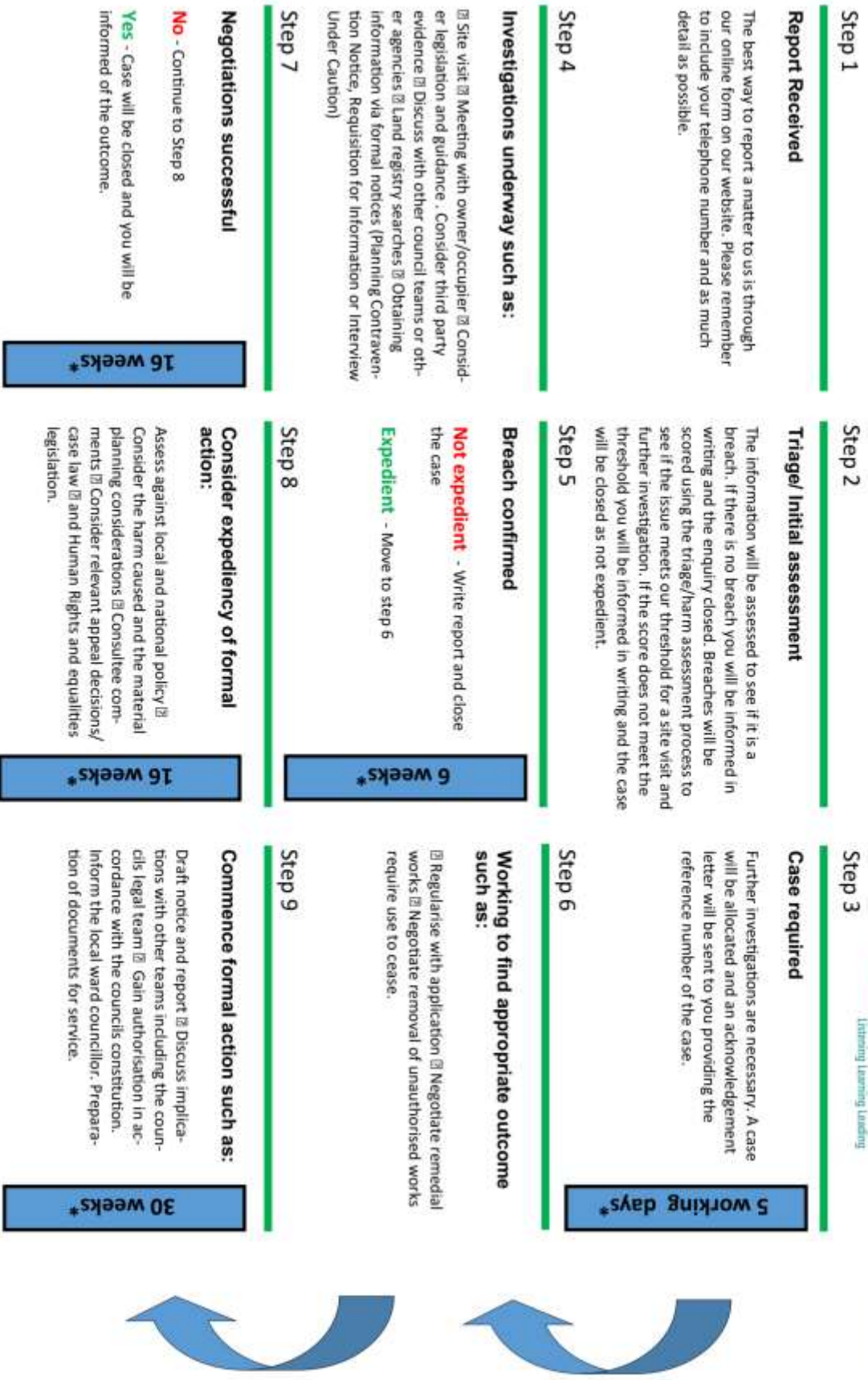
Planning Contravention Notice (PCN)

As part of our investigation, we may serve a PCN. This notice allows us to formally require the person responsible for a breach to answer questions and provide information needed for enforcement purposes e.g., details of operations being carried out, any use of, or any activities being carried out on the land. It also gives those in receipt of these notices the opportunity to provide any additional information relevant to the situation and to put forward remedial options.

Planning Enforcement Order (PEO)

Where there has been a deliberate concealment of a breach of planning control, we may apply to the Magistrates Court for a PEO. Where a PEO is granted we have one year and 22 days to serve an enforcement notice irrespective of how long ago the breach first occurred. The four year and 10 year periods for immunity do not apply.

Enforcement Investigation Process



**timescales are approximate, some complicated cases may take considerably longer. A flexible approach must be taken, if circumstances change we may need to alter our course of action.*

Contacts and links to legislation and further information

Contacts

■ Development Management Team Leader (Enforcement)

South Oxfordshire and Vale of the White Horse District Councils,
135 Eastern Avenue
Milton Park
Milton
OX14 4SB
Phone: 01235 422600

■ Department for Levelling Up, Housing and Communities

The Government Department with overall responsibility for planning.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

■ Planning Inspectorate

The organisation responsible for the processing of planning and enforcement appeals.

Tel: 0303 444 5000.

Email: enquiries@pins.gsi.gov.uk

<http://www.planning-inspectorate.gov.uk/pins/index.htm>

■ Planning Aid

Provides free, independent, and professional town planning advice to communities and individuals.

Email: contact@rtpi.org.uk

<http://www.rtpi.org.uk/planning-aid/>

■ Planning Portal

The Government's online planning resource where you can learn about the planning system and research the latest government policy.

<http://www.planningportal.gov.uk/wps/portal/portalhome>

Legislation and National Policy

- **The Town and Country Planning Act 1990 (as amended)**

Part III Control Over Development

<https://www.legislation.gov.uk/ukpga/1990/8/part/III>

- **Town and Country Planning (General permitted Development) (England) Order 2015 (as amended)**

<https://www.legislation.gov.uk/uksi/2015/596/contents/made>

- **NPPF para 59 Section 4 Decision making**

<https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making>

Government Guidance

- **PD for Householders technical guidance**

<https://www.gov.uk/government/publications/permitted-development-rights-for-householders-technical-guidance>

- **Enforcement and Post decision matters**

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

- **Use of Planning Conditions**

<https://www.gov.uk/guidance/use-of-planning-conditions>

Other useful links

- **Planning Portal interactive house visual guide to PD**

https://www.planningportal.co.uk/info/200125/do_you_need_permission/90/interactive_house

- **OCC - Fix My Street**

<https://fixmystreet.oxfordshire.gov.uk/>

Appendix 1

Harm Assessment – Triage Scheme

Procedure for initial processing reported breaches of planning control.

Purpose

This document sets out the council's assessment procedure for handling identified breaches of planning control. It assesses the level of "planning harm" the breach is considered to cause and provides a process for efficiently closing cases.

Background

In the past when the council considered an alleged breach of planning control the case was not closed until a site visit had taken place and any breach of planning control remedied. This meant considerable resource being spent on pursuing minor breaches of planning control that were not causing harm to public amenity and/or interest.

The Scheme

The assessment is used for all allegations made to the council that are confirmed as breaches of planning control. The scheme allows officers to assess the information and grade the "harm" of the breach against a series of planning criteria.

The threshold for triggering a site visit and further investigation is a total score of five and above. Where the score is four or under, we will not pursue the breach due to the negligible impact on public amenity and/or interest being considered negligible.

Cases that don't meet the threshold will be closed and advisory correspondence sent to the informant that no action will be taken.

Operational Aspects

The assessment is part of our triage process, which we will complete within five working days of receiving a report. If a site visit is required, it will be prioritised in accordance with the priorities set out in the Enforcement Statement and allocated to an enforcement officer for further investigation.

Conclusion

The harm assessment approach provides:

- A quantitative and qualitative assessment of harm to public amenity/interest.
- An open and transparent process.
- A quick and effective method for processing reports of alleged breaches.
- A flexible system to make best use of our resources.
- Fair and consistent decision making.

The criteria and scoring are an effective way to identify minor/trivial breaches of planning control, as well as prioritising more serious breaches of planning control for officers to investigate further.

We will review this statement and approach on an annual basis

TRIAGE HARM ASSESSMENT FORM

CASE REF:

Following the submission of an alleged breach of planning, an assessment is first made as to whether the issue is a breach of planning control. All confirmed breaches of planning control will be triaged to assess their harm and allocated scores. The total will provide its harm score.

| Points Allocation | | | Score |
|-------------------|--|---|-------|
| 1 | Is the breach: | a breach of condition (4) Worsening/ongoing (2) Creation of new planning unit (1) Stable (0) Score each issue | |
| 2 | Highway safety issue: | Yes (2) No (0) | |
| 3 | Other safety issues: | Yes (2) No (0) | |
| 4 | Causing/potential to cause a statutory or serious environmental nuisance | Yes (1) No (0) | |
| 5 | Age of breach: | Within 12 months of immunity (2) Over 12 months to immunity (0) | |
| 6 | Is there planning harm: | Widespread (2) Local (1) None (0) | |
| 7 | Irreversible harm: Biodiversity Protected species Trees Conservation area Listed Building | Yes (2) No (0) (2 points per issue) | |

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| 8 | Flood Risk | Zone 3 (2) Zone 1-2 (1) NFR (0) | |
| 9 | Listed building (or affecting the character or setting of a listed building) | Yes (3) No (0) | |
| 10 | Particularly sensitive site e.g. Conservation area, SSSI, AONB, Greenbelt Scheduled monument Listed Garden, Archaeological importance | Yes (1) No (0) (1 point per designation) | |
| 11 | Cumulative Impact? | Yes (1) No (0) | |
| TOTAL POINTS (HARM SCORE) | | | |

