

Draft Planning Enforcement Policy 2023

1. OBJECTIVE OF THIS PLANNING ENFORCEMENT POLICY

- 1.1 Tandridge District Council's objective in producing this Planning Enforcement Policy is seeking to be consistent with the National Planning Policy Framework 2021 (NPPF). Paragraph 59 of the NPPF states:

“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 it is appropriate to do so.”

- 2.2 Planning enforcement covers the areas of planning permission (including compliance with planning conditions), advertisement consent, listed building consent, conservation area consent, tree preservation orders and untidy land. Although planning enforcement action is a discretionary power of the District Council as local planning authority and should only be exercised when expedient to do so, the primary objective of the Council is to prevent harm to the District and its residents and businesses from unauthorised development. This will be the overriding objective both of this enforcement policy and the way it is put into practice.

2. IMPLEMENTATION OF THE PLANNING ENFORCEMENT POLICY

- 2.1 This overall planning enforcement policy will be implemented in accordance with the individual policies set out below:

POLICY 1:

The Council’s planning enforcement team, trees officers and development management team will prioritise the investigation and response to allegations of breaches of planning control in accordance with Table 1 below:

TABLE 1: Prioritisation and target response times for investigation of potential breaches of planning control:

NATURE OF BREACH	PRIORITY	TARGET RESPONSE TIME (ie first site visit by an enforcement officer).	TIME FOR SERVICE OF TEMPORARY STOP NOTICE	TIME FOR SERVICE OF ENFORCEMENT NOTICE	TIME FOR SERVICE OF STOP NOTICE
<ul style="list-style-type: none"> • Deliberate unauthorised development in the Green Belt • Development that has the potential to cause irreparable harm to the environment, especially sensitive sites such as Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty etc. • Unauthorised works to, or changes of use of, a listed building. • Unauthorised works or changes of use in conservation areas. • Unauthorised works to protected trees. (Trees subject to Protection Orders and Trees in Conservation Area) • Non-compliance with surface water drainage conditions attached to planning permissions in areas. particularly at risk of flooding 	1	As soon as possible and at least within 1 working day.	Within 3 working days of first site visit.	Within the 28 day period covered by the temporary stop notice.	Within 3 days of service of the enforcement notice, unless the enforcement notice expressly sets out reasons why the Stop Notice should have immediate effect.

NATURE OF BREACH	PRIORITY	TARGET RESPONSE TIME (ie first site visit by an enforcement officer).	TIME FOR SERVICE OF TEMPORARY STOP NOTICE	TIME FOR SERVICE OF ENFORCEMENT NOTICE	TIME FOR SERVICE OF STOP NOTICE
<ul style="list-style-type: none"> • Non-compliance with contaminated land remediation conditions. • Non-compliance with conditions seeking to safeguard archaeological interest. • Unauthorised engineering operations, including the importation onto land of materials to be used in construction or land raising activities. 					
<ul style="list-style-type: none"> • Activities resulting in disturbance and loss of amenity to neighbouring residential properties or sensitive land uses or third parties. • Activities that are likely to be adversely affecting the environment, but not irreparably. • Breach of planning condition • Alleged unauthorised change of uses of land or buildings 	2	Within 3 working days.	If the harm justifies service of a temporary stop notice, the notice to be served within 5 working. days of first site visit	If the harm justifies the service of an enforcement notice, within the 28 day period covered by the temporary stop notice.	If the harm justifies the service of a stop notice, within 3 days of service of the enforcement notice, unless the enforcement notice expressly sets out reasons why the Stop Notice should have immediate effect.

NATURE OF BREACH	PRIORITY	TARGET RESPONSE TIME (ie first site visit by an enforcement officer).	TIME FOR SERVICE OF TEMPORARY STOP NOTICE	TIME FOR SERVICE OF ENFORCEMENT NOTICE	TIME FOR SERVICE OF STOP NOTICE
<ul style="list-style-type: none"> • Minor breaches of condition. • Activities causing minimal disturbance to third parties, if any. 					
<ul style="list-style-type: none"> • Unauthorised advertisements. • Complaints about the condition of land or a building adversely affecting the amenity of an area. 	3	Within 7 working days	Not applicable.	Not applicable.	Not applicable.

2.2 Within the Council’s Planning Department the distribution of the enforcement functions set out in Table 1 above will be as provided for in Policy 2 below:

POLICY 2:

The planning enforcement team will be responsible for the investigation of, and follow-up action upon, breaches of planning control, with the exception of:

- i) the initial investigation of breaches of planning conditions and what action should be taken to seek to remedy the breach which will be a matter for Development Management Officers; and**
- ii) the investigation of, and subsequent action against, breaches of tree preservation orders which will be matter for the Trees Officers.**

When it is determined with respect to breaches of planning conditions that a breach of condition notice should be served the enforcement of that breach will pass to the planning enforcement team.

2.3 Local planning authorities should act proportionately and expediently in exercising their discretionary enforcement powers but this should not undermine the use of effective and timely enforcement action. Tandridge District is 94% covered by Green Belt and has two Areas of Outstanding Natural Beauty (AONB), the Surrey Hills AONB and the High Weald AONB, as well as a wealth of heritage assets, all of which require priority in being protected from harmful breaches of planning control in accordance with Policy 3 below:

POLICY 3:

The Council will assess what enforcement action may be appropriate against the actual or potential level of harm a breach of planning control may cause, except that the Council will immediately initiate enforcement action in cases of:

- a) Breaches of planning control harmful to the Green Belt and open countryside;**
- b) Breaches of planning control in Areas of Outstanding Natural Beauty;**
- c) Breaches of planning control relating to works, or changes of use of, listed buildings;**
- d) Breaches of planning control in conservation areas;**
- e) Breaches of planning control consisting of engineering operations involving the importation of materials for infilling land, land raising or other works of construction on land; and**
- f) Any breaches of planning control that would be likely to cause irreparable harm to the environment.**

In all the cases a) to f) above the Council will as a precursor to subsequent enforcement action serve a temporary stop notice or temporary stop notices in accordance with the timescale set out in Table 1 of Policy 1 above.

Enforcement action required in all cases a) to f) above will be taken irrespective of whether those responsible for a breach of planning control seek to remedy that breach by a planning application or other application.

The Council will not delay initiating enforcement action in any case under e) above pending consultation with other outside agencies which have their own powers of prosecution or enforcement.

2.4 One way that some breaches of planning control may be resolved is the making of a retrospective planning application but this will only be considered if Policy 4 below is complied with:

POLICY 4:

When those responsible for a breach of planning control indicate that they will submit a retrospective application to regularise that breach, enforcement action will only be deferred if:

- a) the enforcement case officer in consultation with development management officers considers that there is a reasonable prospect planning permission may be granted; and**
- b) the breach of planning control will cease pending determination of the retrospective application to ensure no harm to amenity or the environment or ongoing contravention of development plan policy.**

2.5 Regrettably, cases of deliberate breaches of planning control do arise when those responsible ignore Temporary Stop Notices served on the land and in such cases the Council will respond in accordance with Policy 5 below:

POLICY 5:

When a deliberate breach or breaches of planning control occur and a Temporary Stop Notice is ignored, the Council will seek to restrain any ongoing or further breach or breaches of planning control through the use of a High Court injunction.

2.6 The Council will seek at all times to ensure that its planning enforcement function is resilient and has the confidence of residents and businesses in the District that it can provide effective and timely action against breaches of planning control when that is required. Some recent cases of deliberate breaches of planning control on Green Belt sites have demonstrated the need for resilience by being able to respond to quickly outside of normal working hours. Policy 6 below seeks to achieve that resilience:

POLICY 6:

The Council will ensure that its planning enforcement function provides effective and timely enforcement action through:

- a) Adequate resourcing;**
- b) Keeping under review management and procedures;**
- c) Key performance indicators;**
- d) Pursuing opportunities for sharing resources with other nearby local planning authorities; and**
- e) Instigating at the earliest opportunity an “out of hours” enforcement officer presence.**

2.7 The Council needs to be transparent about the performance of its planning enforcement function as an assurance to elected councillors, residents and businesses and this would be assisted by reports to the Council’s Planning Committee and in the Council’s Annual Monitoring Report as provided for in Policy 7 below:

POLICY 7:

The performance of the Council’s planning enforcement function will be the subject of:

- a) Quarterly reports to Planning Committee detailing and updating what action has been taken to secure compliance with confirmed enforcement notices or breach of condition notices, or what other action (eg prosecution in the courts) has been taken to remedy breaches of planning control; and**
- b) A full annual report on all planning enforcement activity to be included in the Council’s Annual Monitoring Report.**