

# Local Enforcement Plan



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## Section 1 Introduction

This Plan sets out how Worcester City Council, hereafter referred to as the City Council, aims to provide an efficient planning enforcement service in a clear, consistent, proportionate, and open manner. It is recognised that establishing effective controls over development that breaches planning control assists in conserving the natural and built environment whilst helping to protect the quality of people's lives and to ensure confidence in the planning system.

Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the Development Plan and any other material considerations.

Paragraph 59 of The National Planning Policy Framework (2023) (NPPF) states 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. 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 appropriate".*

In addition to the statement made in the NPPF, the Town and Country Planning Act 1990 (as amended) provides the main legislative background regarding breaches of planning control along with the Planning Practice Guidance section titled "Ensuring effective enforcement".

## Section 2 The purpose of planning enforcement

The integrity of the planning system and the service for the City of Worcester area depends on the City Council's readiness to take enforcement action when it is appropriate to do so. The City Council is committed to providing an effective planning enforcement service.

Planning laws and policies are designed to control the development and use of land and buildings in the public interest. They are not intended to protect the private interests of one person against the activities of another.

The City Council does not condone wilful breaches of planning control and will exercise discretion to take enforcement action if it is considered expedient to do so. The City Council will investigate alleged breaches of planning control, to determine whether a breach has as a matter of fact occurred, and if it has, will then determine the most appropriate course of action.

## **Section 3**

### **What is a breach of planning control?**

The Town and Country Planning Act 1990 states that a breach of planning control comprises *'carrying out development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted'* (s.171A). Section 55 of the Act defines development as *'the carrying out of building, mining, engineering or other operations in, on, or over land, or the making of any material change of use of any building or other land.'*

#### **Unauthorised operational development/material change of use of land/buildings**

This could involve such matters as the unauthorised erection of a building or an extension to a building, a material change of use of land and/or a building.

Other breaches of planning control may consist of the following: -

#### **Unauthorised works to Listed Buildings**

Most works to Listed Buildings require consent, and it is a criminal offence to carry out works without such consent. Prosecution proceedings can be instigated under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Alternatively, the Act also gives local planning authorities power to serve a Listed Building Enforcement Notice, to which there is a right of appeal.

#### **Unauthorised display of advertisements**

The display of advertisements is controlled by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended). Some advertisements (which for the purposes of the regulations includes flags) are excluded from the regulations, some benefit from deemed consent and others require an express consent from the local planning authority. An advertisement may be unauthorised if it does not comply with the deemed consent's conditional requirements or does not have express consent, if required. Where enforcement action is appropriate the principal mechanisms are provided in sections 224 and 225 of the Town and Country Planning Act 1990 (as amended).

#### **Unauthorised works to trees subject of a tree preservation order (TPO) or in a Conservation Area**

It is a criminal offence to carry out unauthorised work to trees protected by a Tree Preservation Order. Where works are proposed to trees in a conservation area, the local planning authority should be notified, so the contribution that the tree makes to the conservation area can be evaluated. In both instances the City Council has the power to prosecute offenders and require the planting of replacement trees.

#### **Failure to comply with a Section 106 agreement**

As part of the planning process, a local planning authority and a developer may enter into a legal agreement called a Section 106 agreement (s106). This agreement is a delivery mechanism for the matters that are necessary to make a development acceptable in planning terms.

If the s106 agreement is not complied with, it is enforceable against the person that entered into the obligation and any subsequent owner of the land on which the development has taken place. The s106 agreement can be enforced by injunction. In the case of a breach of the obligation the local planning authority can, where appropriate, take direct action and recover expenses. If planning obligations under a section 106 agreement are not met then the local planning authority has powers to take enforcement action by way of:

- ❖ invoking an injunction (section 106(5) TCPA 1990) this can be for both the fulfilment of a requirement or restriction under the agreement.
- ❖ entering onto the land to carry out the works itself and recover its reasonable expenses for so doing. To do so the local planning authority must first give 21 days' notice to any person against whom the obligation is enforceable (sections 106(6) and 106(7), TCPA 1990)

### **Breaches of Planning Conditions**

A breach of condition notice can be served where there is a failure to comply with any condition imposed on the grant of planning permission. The exception is when the condition has been breached for 10 or more years in line with the statutory limits for taking action. There is no right of appeal against a breach of condition notice.

### **Untidy land where it adversely affects the amenity of the area**

Where land or premises have become derelict or untidy land to the extent it adversely affects the amenity of the area, the local planning authority has the power to serve a notice under section 215 of the Town and Country Planning Act 1990 (as amended), requiring steps to be taken to remedy the untidy condition of land. There is a right of appeal to the Magistrates Court.

### **Removal of protected hedgerows – Hedgerow Regulations 1997**

Under the Hedgerow Regulations 1997, it is an offence to remove certain hedgerows if the owner has not served a Hedgerow Removal Notice on the City Council or where the City Council has served a 'Hedgerow Retention Notice'.

Section 97 of the Environment Act 1995 forms the basis for the above Regulations which introduced a prohibition on the removal of certain hedgerows unless certain procedures are followed. The Regulations apply to any hedgerow growing in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys if it has a continuous length of or exceeding 20m or if less, it meets or intersects with another hedgerow and where it is at least 30 years old and meets at least one of the listed 'importance' criteria. Any hedgerow within the curtilage of a dwelling is excluded.

Protected land refers to land managed as a nature reserve or land designated under section 28 of the Wildlife and Countryside Act 1981.

Enforcement of the Regulations may involve prosecution, requiring the planting of a replacement hedgerow or the service of an injunction to restrain an actual or apprehended offence.

## **Not building in accordance with the approved plans that form part of a planning permission**

In some cases this can result in the whole development being deemed as unauthorised and the demolition of the entire building may be required. In other cases the developer may need to apply retrospectively for what they have built, if an enforcement notice has not already been served by the City Council.

## **Unauthorised engineering operations**

This relates to works that alter ground levels (raising or reducing) and/or the creation of earth bunds, with earth being moved onto, within or from the site. Investigation and action may involve multi agency engagement, for example - Worcestershire County Council (Minerals & Waste) and the Environment Agency.

## **Unauthorised demolition within Conservation Areas**

If you live in a conservation area, you will need planning permission for some demolition activities, such as:

- ❖ Demolishing a building with a volume of more than 115 cubic metres. There are a few exceptions - you can get further information from the Planning team or via [The Planning Portal - other permissions you may require \(Conservation Areas\)](#)
- ❖ Demolishing a gate, fence, wall or railing that is over 1 metre in height next to a highway (including a public footpath or bridleway) or public open space; or over 2 metres high elsewhere.

## **Section 4**

### **Matters that are not breaches of planning control**

The City Council's planning enforcement team can only investigate, and take action if appropriate, where the development/works fall within the statutorily prescribed remit of development management. Some matters may be private/civil, or controlled by other legislation, which other bodies have authority to enforce. In addition, there are also significant 'permitted development' rights for development and changes of use.

Examples of works that are not a breach of planning control:

- ❖ Internal works to a non-listed building that do not result in a material change of use;
- ❖ Obstruction of a highway or public right of way (PROW);
- ❖ Parking of vehicles on the highway or on grass verges;
- ❖ Parking caravans on residential driveways or within the curtilage of domestic properties if they are incidental to the enjoyment of the property;

- ❖ Land ownership disputes or trespass issues;
- ❖ Covenants imposed on property Deeds;
- ❖ Any works that are 'permitted development' under The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification).
- ❖ Advertisements that benefit from deemed or express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and as such are excluded from direct control;
- ❖ Dangerous structures or other health and safety issues such as those that fall within the remit of the Health and Safety Executive (HSE);
- ❖ High hedge disputes (evergreen hedges) – however, these are dealt with by Planning Services and are investigated under Part 8 of the Anti-Social Behaviour Act 2003.

In the case of high hedges, the Anti-Social Behaviour Act 2003 does not specify a fixed height that a hedge should be maintained at specified. Instead, in response to a formal complaint and following payment by the complainant of the appropriate fee, the City Council will assess the hedge in relation to its surroundings to determine what is called the 'action height'.

If appropriate, the City Council will specify what height the hedge should be cut to and then maintained at. The City Council's decision is legally binding. Information on high hedge issues can be found on the City Council's website at: [High Hedges Complaints - Worcester City Council](#)

## **Section 5 Discretionary Enforcement Action**

It is important to note that if a breach of planning control is established, it is at the City Council's discretion to take enforcement action. The City Council must first decide, having regard to relevant planning policies contained within the Development Plan (currently the South Worcestershire Development Plan 2016), guidance contained in the National Planning Policy Framework (NPPF), the National Planning Practice Guidance and all other material planning considerations whether it is 'expedient' to take formal action.

### **'Expediency'**

The Test of Expediency is used when assessing whether to instigate enforcement action. The following will be considered:

- i. the proposed action must be in the public interest;
- ii. the breach must be sufficiently harmful to justify taking action;
- iii. the proposed action must be reasonable and commensurate with the breach in planning control to which it relates;



- iv. whether the cost of the action is proportionate to remedying the harm resulting from the breach; and,
- v. whether or not the development is in accordance with planning policies.

When assessing the 'expediency' of taking formal action there are certain matters that are not material consideration, for example:

- ❖ reduced value of neighbouring properties
- ❖ Commercial competition
- ❖ Private disputes
- ❖ Party Wall disputes.

Government guidance states that enforcement action should be a last resort and that councils are expected to give those responsible for a breach of planning control the opportunity to put matters right or to seek to regularise the breach before resorting to serving a formal notice. Action must be proportionate and commensurate to the breach of planning control.

Formal enforcement action should usually be avoided where:

- ❖ there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- ❖ development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- ❖ in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

The decision whether to take formal enforcement action will be made following an assessment of the specific facts of the case and careful consideration of the merits and public benefit of pursuing formal action.

## **Section 6**

### **Immunity from enforcement action**

Section 171B of The Town and Country Planning Act 1990 (as amended) stipulates that enforcement action may not be taken after:

- ❖ a period of 4 years has elapsed from either the substantial completion of an unauthorised development (building, engineering, mining or other operations) or from the change of use of any building to a single dwellinghouse, or

- ❖ a period of 10 years in the case of any other breach of planning control (any other change of use or breach of condition) beginning with the date of the breach.

This means that the unauthorised development has immunity from enforcement action and consequently the City Council, as local planning authority, does not have the legal authority to take action.

The Levelling Up and Regeneration Act 2023 sets out revisions to the time limit for commencing enforcement action. Following the passing of secondary legislation to bring the revisions into force the Council will adhere to the revised time limits, and any subsequent changes in legislation.

Listed buildings and deliberate concealment

This immunity does not apply to unauthorised works to listed buildings, or cases where it is clear that there has been deliberate concealment of the breach of planning control.

It should be noted that subsequent owners of listed buildings inherit any unauthorised work undertaken by previous owners because there is no statutory time limit for taking enforcement action. A subsequent owner may be required to reverse unauthorised works when they are identified (the liability for the criminal offence of the unauthorised works does not transfer to a subsequent owner).

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action (currently Section 171B of the Town and Country Planning Act 1990) have expired. A Planning Enforcement Order enables the council to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired. The application is to be made within 6 months, starting with the date on which sufficient evidence of the apparent breach came to the local planning authority's knowledge. The appropriate officer must sign a certificate on behalf of the authority which states the date on which that evidence came to the local planning authority's knowledge, and the certificate will be conclusive of that fact. This application is made to the Magistrates' Court and a copy served on anyone with an interest in the land who in turn have a right to appear before, and be heard by, the court hearing the application.

## **Section 7**

### **How to report an alleged breach of planning control**

The City Council considers in the region of 250-300 complaints of alleged breaches of planning control each year.

In order that your complaint can be dealt with efficiently it is important that you provide us with as much information as you can. You must provide your name, email address and/or postal address.

Your written confirmation that you acknowledge that the City Council will hold and process your information in accordance with Data Protection Law is required and without it we cannot register your complaint. Information on the City Council's privacy notices can be viewed on our website: [Privacy Policy - Worcester City Council](#)

Complaints about alleged breaches of planning control should be made by completing the Council's Online Planning Enforcement Complaint Form, which can be found on the Council's website: [Planning enforcement - Worcester City Council](#). This helps to ensure that you provide all the necessary information and also includes the requirement to acknowledge how we will hold and process your information.

If you are unable to complete the online complaint form you can email the information (as set out below) to [Planning@Worcester.gov.uk](mailto:Planning@Worcester.gov.uk), or send it by letter to the address given on the [Council's website](#) or hand deliver it to Customer Services at the Guildhall (you will still be required to provide written confirmation that you acknowledge that the City Council will hold and process your information in accordance with Data Protection Law.

Information required to enable us to register your complaint: -

- ❖ Address for the particular site, or at least an accurate description of its location;
- ❖ A detailed description of the activities taking place that are cause for concern; and identification of the harm being caused;
- ❖ Names, addresses and phone numbers of those persons responsible for the alleged breach or the landowners (if known);
- ❖ The date and times of when the alleged breach first took place and details of any subsequent times;
- ❖ Your name and postal address and an email address if you have one;
- ❖ If possible, photographs or video evidence showing the alleged breach.

#### Anonymous complaints

Anonymous complaints will not normally be investigated unless clearly relating to a matter of public interest. The City Council determines whether the alleged breach merits investigation. Complainants who do not wish to give their personal details will be advised to contact either their Local Ward Member or their Parish Council who may be prepared to raise concerns on behalf of an individual. Personal details provided by a complainant will be kept confidential and will not be disclosed unless required to do so as a result of any formal Court proceedings.

#### Vexatious or malicious complaints

The City Council recognises that, on occasion, a complainant may feel that a complaint has not been resolved to his/her satisfaction. However, in a minority

of cases members of the public pursue their complaints in a way that is unreasonable.

The City Council has addressed such matters in Section 7 of the [Feedback and Complaints Policy](#) This policy is designed to help manage unreasonable complainant behaviour, prevent duplication and abortive work by employees, and protect the City Council's employees from harassment and harm.

## Section 8

### What can you expect if you report an alleged breach of planning control?

We will: -

- ❖ investigate all alleged breaches of planning control received by the City Council either in writing (by email or letter) (see section 7 – anonymous, vexatious or malicious complaints);
- ❖ always keep your personal details confidential, unless required to disclose them as part of court proceedings. The Council's policy on how a complainant's personal data will be held and processed can be found on our website: [Privacy Policy - Worcester City Council](#);
- ❖ register your complaint where possible within 5 working days of receipt and provide you with an acknowledgement and reference number with a named officer as the main point of contact;
- ❖ keep you informed of the progress of the case and of any significant decisions made regarding whether the City Council is to take action and if any, what action will be taken, and the likely timescales involved;
- ❖ consult other relevant Council departments and agencies where it is considered necessary to ensure a thorough assessment of the alleged breach of planning control;
- ❖ actively pursue your complaint where there has been an identified breach of planning control and it is considered to be in the public interest to do so;
- ❖ notify you of the reason for not taking formal action and decision to close the case where there may be a technical breach of planning control, but the harm caused is not sufficient to warrant formal action;
- ❖ negotiate with those responsible for any breach of planning control, allowing them the opportunity to resolve the matters of concern before serving a formal notice when appropriate to do so. This is unless the breach is so serious it would warrant immediate action or where negotiations become protracted with no real likelihood of successful resolution.

## **Section 9**

### **The action we will take about your complaint**

Your complaint will be: -

- ❖ Given a priority based on the City Council's published priority table which is contained in this plan;
- ❖ Investigated and a site inspection undertaken in line with the published timescales, where possible, contained in this plan;
- ❖ Pursued until such a time that the matter is satisfactorily resolved, either by regularising the breach or if the development is found to be lawful or until a decision is taken that it is no longer expedient to pursue the matter;
- ❖ In the event that a formal notice is served and not complied with, the case to which your complaint relates may be pursued through to the Magistrates Court or higher court where necessary.

## **Section 10**

### **Complaint Priorities**

In order to make the best use of the resources available to the City Council it is important to prioritise the complaints received in accordance with the seriousness of the alleged breach. This will initially be decided by the City Council following receipt of the complaint however may be subject to change following a site inspection or when further information comes to light.

## Priority Categories

Category	Initial assessment of harm caused	Examples of types of case	Time for investigations to commence
<p style="text-align: center;"><b>A</b></p> <p style="text-align: center;">Serious breaches causing irreversible harm</p>	<p>Severe, irreversible and usually ongoing / progressive</p>	<ol style="list-style-type: none"> <li>1. Unauthorised works to a listed building or scheduled ancient monument.</li> <li>2. Removal of hedgerows/works to trees which are protected by Tree Preservation Orders/within Conservation Areas</li> <li>3. Unauthorised development within or affecting Sites of Special Scientific Interest (SSSI) or other nationally or locally designated sites of nature conservation.</li> <li>4. Unauthorised encampments causing harm to the environment.</li> <li>5. Unauthorised development / advertisements which gives rise to a potential risk to public safety including pollution or environmental harm.</li> </ol>	<p>Within 1 – 2 working days</p>
<p style="text-align: center;"><b>B</b></p> <p style="text-align: center;">Breaches causing significant harm</p>	<p>Ongoing work which may cause significant and progressive harm. Operations or uses that causes local harm or loss of amenity</p>	<ol style="list-style-type: none"> <li>1. Development which could have a harmful nature conservation (including biodiversity net gain and protected species) and/or landscape impact.</li> <li>2. Large scale building works causing significant loss of amenity.</li> <li>3. Noise and odour issues causing loss of amenity, resulting from development or a change of use or from Breaches of condition.</li> <li>4. Ongoing building works, including extensions.</li> <li>5. Unauthorised development which would adversely affect the character/appearance of a</li> </ol>	<p>Within 5 working days</p>

		<p>conservation area or the setting of a listed building.</p> <p>6. Serial breaches where there is a history of non-compliance with planning legislation irrespective of the level of harm, including such matters as unauthorized signage/advertisements.</p>	
<p><b>C</b></p> <p>Breaches of Planning Control that do not cause significant harm</p>	<p>No significant harm or impact limited to adjacent properties. Completed works and operations.</p>	<ol style="list-style-type: none"> <li>1. Unauthorised signage/advertisements (unless the sign/advertisement seriously affects public safety).</li> <li>2. Domestic extensions and outbuildings.</li> <li>3. Most breaches of planning conditions where likely to be resolved without formal action.</li> <li>4. Any breach of development control which is not causing significant noise, vibration, smell or visual harm.</li> <li>5. Unauthorised telecommunications equipment/satellite dishes/equipment on residential premises.</li> <li>6. Operational development not built in accordance with approved plans or in accordance with conditions set out in the General Permitted Development Order.</li> </ol>	<p>Within 10 working days</p>

## Section 11

### What are the possible outcomes of an investigation?

#### No breach established

Following a site inspection, it may be established that there is no breach of planning control because, for example, the unauthorised use has ceased, or the development is 'permitted development'.

### **There is a breach of planning control but not considered expedient to pursue**

Just because a breach is established, this does not automatically result in formal action being taken. Enforcement powers are discretionary and minor technical breaches may not be considered expedient to pursue. Some cases may be considered to be 'de minimis' for example (too minor to warrant the time and expense involved in pursuing them).

### **The development is immune from enforcement action and is therefore lawful**

This is when the unauthorised development or unauthorised change of use has occurred over a long period of time without being brought to the attention of the City Council. There are specified time limits for the commencement of enforcement action, which are currently set out in Section 171B of The Town and Country Planning Act 1990 (as amended). Following the enactment of the Levelling Up and Regeneration Act 2023 these are to be amended through secondary legislation. Updates will be made to the Planning Policy Guidance: [Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/enforcement-and-post-permission-matters)

### **Negotiations take place to find a solution**

In accordance with Government guidance, the first priority is to try and resolve any breaches of planning control through negotiation. Only when such negotiations fail to secure an acceptable solution should formal action be considered. The City Council will however try to avoid negotiations becoming protracted where there is a need to make the development acceptable or where there is a requirement for a particular use to cease.

### **Retrospective Planning Applications**

In accordance with Government advice the City Council will firstly seek to negotiate a solution to any confirmed breach of planning control. By entering into negotiations with the landowner and/or person responsible for the breach of planning control, a solution may be found which could involve the cessation of any unauthorised change of use or building operations, the removal of any unauthorised building works or items constituting a material change of use of land, or the remedy for a breach may be best achieved by the submission of a retrospective planning application.

The submission of a retrospective application may be appropriate where it is considered that there is a reasonable likelihood that planning permission may be granted in line with local and national planning policies or where a development may be made acceptable by way of the imposition of conditions.

Minor or technical breaches of planning control may not be pursued in the event that a retrospective application has been requested and not submitted or where it is not considered expedient to do so.

### **Under Enforcement**

The City 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".



Where an enforcement notice identifies a breach of planning control which could have required any buildings or works to be removed, or an activity to stop, but has stipulated some lesser requirements, and all the requirements of the notice have been complied with, then planning permission is deemed to be granted for those remaining operations or use (Section 173(11) of the Town and Country Planning Act 1990 (as amended)).

Whether a particular notice “could have” required something is contingent upon the terms of the alleged breach of planning control set out in the notice.

### **Formal Action**

The City Council has a range of formal powers under the Town and Country Planning Act 1990 (as amended) that it can use to remedy breaches of planning control. The more common forms of enforcement action are set out in Appendix I.

There is a right of appeal against an Enforcement Notice, the process for which is undertaken by the Planning Inspectorate. The details regarding this process are provided when a notice is issued.

## **Section 12 Decision making and complaints**

The decision of whether to take formal enforcement action is delegated to officers. It is made following a thorough investigation by a Planning Enforcement Officer and the outcome depends on the expediency of taking action, as set out in section 5. The decision not to take formal action can be justified having regard to the Local Enforcement Plan, which explains the investigation process and the policies in the Development Plan (currently the South Worcestershire Development Plan 2016) and the National Planning Policy Framework, which set out the policy criteria for acceptable forms of development, and other relevant material planning considerations.

If anyone is dissatisfied with the service provided or the decision made, in the first instance they can write to the Service Manager – Development Management (via [Planning@worcester.gov.uk](mailto:Planning@worcester.gov.uk)) or proceed to the [Council’s Corporate Complaints Procedure](#).

Following that, if anyone is dissatisfied with the complaints response they can refer their complaint to the Local Government and Social Care Ombudsman. The Ombudsmen is unlikely to consider a complaint unless it has already been fully investigated by the City Council through their Corporate Complaints Procedure.

The Local Government and Social Care Ombudsman can be contacted at:

- ❖ Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH
- ❖ [Local Government and Social Care Ombudsman](#)
- ❖ [www.lgo.org.uk](http://www.lgo.org.uk)

❖ Telephone: 0300 061 0614

## **Section 13**

### **What happens if an allegation is made against you?**

If a complaint is received that affects land/buildings that you have an interest in, you will be contacted (if the City Council has your details) and/or the enforcement officer will undertake a site visit. The purpose of this visit is to establish the facts of the case and whether there is any basis to the allegations made. The officer will, where necessary take measurements and photographs of the development or activity taking place. This site inspection may be undertaken without any prior notification.

If there is a breach of planning control, you will be advised of the details of the breach and what steps need to be taken to either rectify the breach or regularise the situation.

You will be given a reasonable period of time (subject to the nature of the breach) to resolve the breach(es) of planning control. If compliance is not secured through negotiations or the submission of a retrospective planning application formal action may be instigated.

## **Section 14**

### **Compliance and monitoring**

#### **Compliance**

It should be noted that it is the responsibility of individual developers to comply with the conditions imposed on any planning permission or consent (including those imposed in respect of 'permitted development' and 'express consent' etc.) or with any terms identified in legal agreements, such as Section 106 agreements. Breaches of planning control could result in delays and/or difficulties during the sale of a property. This is because as part of the conveyancing the purchaser's solicitors often require confirmation that all development benefits from the required permissions/approvals.

Failure to comply can affect not only the quality of the environment or the amenity of neighbouring properties, but also undermine the reasons and justification for granting planning permission or other consents in the first instance.

In the case of listed buildings work that does not comply with the approved plans is unauthorised and a criminal offence.

#### **Voluntary Start Notices**

A developer is not required by law to notify the City Council (as local planning authority) before commencing development for which planning permission has been granted. As such there is no comprehensive method of checking if conditions, especially pre-commencement conditions, have been complied with.

Whilst it may be possible to cross reference Building Control commencement reports this is time consuming and relies on the report being accurate. Where

an 'approved inspector' is used, rather than the South Worcestershire Building Control Service, this may not show up on any report.

The City Council sends voluntary start notices to applicants/their agent where planning permission has been granted subject to conditions that control the development whilst it is being carried out, to capture this information for our records.

### **Monitoring**

In addition to the service's role in reacting to complaints regarding alleged unauthorised developments or breaches of condition, where resources allow the City Council will carry out some proactive monitoring of developments, if required with regards the specific circumstances of the case, to ensure compliance with the approved scheme. Proactive monitoring of some planning permissions will encourage and enable compliance with conditions to ensure that development remains acceptable in planning policy terms whilst maintaining an attractive, high-quality environment.

## **Section 15 Power of entry onto land**

Section 196(a) of the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Area) Act 1990 and Part 8 of the Anti-Social Behaviour Order Act 2003 gives City Council planning and enforcement officers the power to enter land and/or premises at all reasonable hours in order to undertake his/her official duties. Wilful obstruction of a person exercising a right of entry is an offence.

The above does not allow the admission to any building used as a dwellinghouse to be demanded as a right by virtue of the legislations unless twenty-four hours prior notice of the intended entry has been given to the occupier of the building.

## **Section 16 Reporting of Enforcement Cases**

A case will be considered resolved/closed when:

- ❖ Following investigation, no breach is established;
- ❖ A decision is made that it is not expedient to pursue enforcement action;
- ❖ The matter is being regularised through the application process. Further investigation may be necessary on refusal of permission if development remains in breach;
- ❖ The breach of planning control has ceased;
- ❖ Planning permission has been granted and is being complied with; or
- ❖ A formal notice is served and has been complied with.

We do not intend to publicise details of individual enforcement cases under investigation, as, until our investigations are complete, it is not possible to confirm the status of an alleged breach of planning control. It would therefore be

inappropriate and potentially unfair to publicise the details of an individual, business, site or operation which ultimately may be found not to have breached planning controls. However, any formal notice served on a property will be revealed in a Land Charges Search and, if a specific question is asked for example as part of a request for information under the Freedom of Information Act or Environmental Information Regulations, we may have to reveal that there is an on-going investigation.

Periodically we will report the number of enforcement complaints received, the number of cases closed and the number of outstanding cases to elected members of the City Council. Additionally, we will report the outcome of all enforcement appeals to elected members of the City Council.

## **Section 17**

### **Other Contacts and Sources of Advice**

Councillors are an important source of local knowledge and advice and may be contacted and lobbied. However, it is important to bear in mind that they operate under a formal Code of Conduct and they will not be able to express an opinion on any development that they intend to consider formally at a later stage.

You may also find that your local Parish Council have information or knowledge of development that has taken place. Other sources of advice and guidance include private planning consultants and Planning Aid who may be able to provide you with free, professional and independent planning advice.

Planning Services at the City Council only has powers to enforce certain breaches of planning regulations. It may be that other organisations, such as the Environment Agency, Worcestershire County Council, Worcestershire Regulatory Services or the Health and Safety Executive have additional or more appropriate powers to enforce against any alleged unauthorised development or activity. Where appropriate we will refer reported breaches to the appropriate organisation.

## **Section 18**

### **Contact Details**

The Planning Enforcement team can be contacted via the contact details provided on the website: [Planning Enforcement - Worcester City Council](#)

Note:

The consultation on this Plan was prior to the enactment of the Levelling Up and Regeneration Act 2023. In carrying out its enforcement functions the City Council will do so in accordance with the most up to date legislation.

## Appendices

### Appendix I. - Types of formal enforcement action

**Planning Contravention Notice** -(PCN) – Section 171(c) of the Town and Country Planning Act 1990 ('the Act') enables the service of a notice requiring persons to provide information in relation to land or activities on land where a breach of planning control is suspected.

**Request for Information (RFI)** – Section 330 of the Act enables a notice to be served requesting details to be provided of any owners, occupiers or any other persons with an interest in the land

**Enforcement Notice** – Section 172 of the Act enables the service of a notice which requires specific steps to be undertaken to remedy the breach of planning control

**Breach of Condition Notice (BCN)**– Section 187(a) of the Act enables the service of a notice to secure compliance with conditions imposed on a planning permission

**Stop Notice (SN) or a Temporary Stop Notice (TSN)** - Section 183 and Section 171(e) of the Act enables the service of a notice requiring the cessation of unauthorised activities. A Stop Notice may only be referred to above

**Urgent Works Notice** - Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 enables a local planning authority (or Secretary of State) to action urgent works where they are urgently necessary for the preservation of a listed building. They are typically restricted to urgent repairs, i.e., to keep a building wind and weather-proof and safe from collapse, or action to prevent vandalism or theft.

**Section 215 Notice** – Section 215 (s215) of the Act provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of part of their area is being adversely affected by the condition of neighbouring land and buildings, they may serve a notice on the owner requiring that the situation be remedied.

These notices set out the steps that need to be taken, and the time within which they must be carried out. LPAs also have powers under s219 to undertake the clean-up works themselves and to recover the costs from the landowner.

The use of s215 by LPAs is discretionary and it is therefore up to the LPA to decide whether a notice under these provisions would be appropriate in a particular case, taking into account all the local circumstances. LPAs will need to consider, for example, the condition of the site, the impact on the surrounding area and the scope of their powers.

In addition to the above further action is available by way of the service of injunctions, the taking of direct action to remedy a breach or to instigate prosecution proceedings for non-compliance where it is deemed necessary to do so.

Worcester City Council will comply with the provisions of the Police and Criminal Evidence Act 1984 when interviewing persons suspected of a criminal offence and with the Criminal Procedures and Investigations Act 1996 and Section 222 of the Local Government Act 1972, when carrying out prosecutions.