

## Guidance

# Enforcement and post-permission matters

Responding to suspected breaches of planning control.

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From:

[Department for Levelling Up, Housing and Communities](#)  
[\(/government/organisations/department-for-levelling-up-housing-and-communities\)](#)  
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Where plans are being prepared under the transitional arrangements set out in Annex 1 to the revised [National Planning Policy Framework](#) (<https://www.gov.uk/government/publications/national-planning-policy-framework--2>), the policies in the [previous version of the framework published in 2012](http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2) (<http://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>) will continue to apply, as will any previous guidance which has been superseded since the new framework was published in July 2018. If you'd like an email alert when changes are made to planning guidance please [subscribe](https://www.gov.uk/topic/planning-development/planning-officer-guidance/email-signup) (<https://www.gov.uk/topic/planning-development/planning-officer-guidance/email-signup>).

## Planning enforcement – overview

### What is a breach of planning control?

A breach of planning control is defined in [section 171A of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171A) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171A>) 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.

Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](http://www.legislation.gov.uk/ukxi/2015/596/contents/made) (<http://www.legislation.gov.uk/ukxi/2015/596/contents/made>), constitutes a breach of planning control against which enforcement action may be taken.

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## Who can take enforcement action?

Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas. It should be noted that local authorities have a range of enforcement powers that extend beyond planning, as do the police in certain instances. See, for example, the [note on dealing with illegal encampments](https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments) (<https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>).

Paragraph: 002 Reference ID: 17b-002-20140306

Revision date: 06 03 2014

## When should enforcement action be taken?

There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.

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. This includes a local enforcement plan, where it is not part of the development plan.

In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular [paragraph 59](https://gov.uk/guidance/national-planning-policy-framework/4-decision-making/#para59) (<https://gov.uk/guidance/national-planning-policy-framework/4-decision-making/#para59>).

The provisions of the [European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14](http://www.echr.coe.int/Documents/Convention_ENG.pdf) ([http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)) are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

Paragraph: 003 Reference ID: 17b-003-20140306

## What are the time limits for taking enforcement action?

In most cases, development becomes immune from enforcement if no action is taken:

- within 4 years of substantial completion for a breach of planning control consisting of operational development;
- within 4 years for an unauthorised change of use to a single dwellinghouse;
- within 10 years for any other breach of planning control (essentially other changes of use).

These time limits are set out in [section 171B of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171B) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171B>).

However, the time-limits set out above do not prevent enforcement action after the relevant dates in certain circumstances. These are:

- [section 171B\(4\)\(b\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171B) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171B>), which provides for the taking of “further” enforcement action in respect of any breach of planning control within 4 years of previous enforcement action (or purported action) in respect of the same breach. This mainly deals with the situation where earlier enforcement action has been taken, within the relevant time-limit, but has later proved to be defective, so that a further notice may be issued or served, as the case may be, even though the normal time-limit for such action has since expired. This is known as the “second bite” provision
- 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
- where a person has deliberately concealed a breach of planning control, the courts have found that in these circumstances, the time limits in section 171B do not engage until the breach has been discovered (see *Secretary of State for Communities and Local Government and another v Welwyn Hatfield Borough Council and Bonsall / Jackson v Secretary of State for Communities and Local Government*).

Therefore, in cases of deliberate concealment, a local planning authority may decide to serve an enforcement notice ‘out of time’ or apply for a planning enforcement order. It is for the local planning authority to decide which approach is appropriate in each case.

Paragraph: 004 Reference ID: 17b-004-20180222

Revision date: 22 02 2018 See [previous version](http://webarchive.nationalarchives.gov.uk/+/https://www.gov.uk/guidance/ensuring-effective-enforcement#planning-enforcement--overview) (<http://webarchive.nationalarchives.gov.uk/+/https://www.gov.uk/guidance/ensuring-effective-enforcement#planning-enforcement--overview>)

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## **Why is effective enforcement important?**

Effective enforcement is important to:

- tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- maintain the integrity of the decision-making process;
- help ensure that public acceptance of the decision-making process is maintained.

Paragraph: 005 Reference ID: 17b-005-20140306

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## **Why are local enforcement plans important?**

The preparation and adoption of a local enforcement plan is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;
- provides greater certainty for all parties engaged in the development process.

Paragraph: 006 Reference ID: 17b-006-20140306

Revision date: 06 03 2014

## **What options are available to local planning authorities to tackle possible breaches of planning control in a proportionate way?**

- [No formal action](#)
- [Retrospective planning application](#)
- [Planning contravention notice](#)
- [Enforcement Notice](#)
- [Planning Enforcement Order](#)
- [Stop Notice](#)
- [Temporary Stop Notice](#)

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- [Injunction](#)
- [Rights of entry](#)
- [Enforcement on crown land](#)
- [Listed Building enforcement](#)
- [Enforcement of hazardous substances control](#)
- [Unauthorised advertisements](#)
- [Enforcement and protected trees](#)

Paragraph: 007 Reference ID: 17b-007-20140306

Revision date: 06 03 2014

## Why is early engagement important?

When investigating an alleged or apparent breach of planning control, a crucial first step is for the local planning authority to attempt to contact the owner or occupier of the site in question. [Section 330 of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/330>) provides local planning authorities with the power to require information as to interests in land. Where it is possible, early engagement is vitally important to establish whether:

- there is a breach of planning control and the degree of harm which may be resulting;
- those responsible for any breach are receptive to taking action to remedy the breach.

Paragraph: 008 Reference ID: 17b-008-20140306

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## Is there a public register of enforcement action?

Local planning authorities must maintain a register of enforcement and stop notices ([section 188 of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/188>) and [article 43 of the Town and Country Planning \(Development Management Procedure \(England\) Order 2015\)](#) (<http://www.legislation.gov.uk/uksi/2015/595/article/43/made>)). It is important that, as soon as possible, details of the following actions should be recorded on the register:

- enforcement notices;
- stop notices;
- breach of condition notices;

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## No formal action

### Can breaches of planning control be addressed without formal enforcement action, such as an enforcement notice?

Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action [may not be appropriate](#).

It is advisable for the local planning authority to keep a record of any informal action taken, including a decision not to take further action

### When might formal enforcement action not be appropriate?

Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action 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](https://www.gov.uk/guidance/use-of-planning-conditions) (<https://www.gov.uk/guidance/use-of-planning-conditions>).

# Retrospective planning applications

## Can a local planning authority invite a retrospective planning application?

A local planning authority can invite a retrospective application. In circumstances where the local planning authority consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application ([section 73A of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/73A) (<http://www.legislation.gov.uk/ukpga/1990/8/section/73A>)) without delay. It is important to note that:

- although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way;
- an enforcement notice may also be issued in relation to other elements of the development.

Paragraph: 012 Reference ID: 17b-012-20140306

Revision date: 06 03 2014

## Are there any restrictions on retrospective applications?

A person who has undertaken unauthorised development has only one opportunity to obtain planning permission after the event. This can either be by means of a retrospective planning application (under [section 73A of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/73A) (<http://www.legislation.gov.uk/ukpga/1990/8/section/73A>)) or by means of an appeal against an enforcement notice on ground that planning permission ought to be granted or the condition or limitation concerned ought to be discharged – this is referred to as a ground (a) appeal.

The local planning authority can decline to determine a retrospective planning application if an enforcement notice has previously been issued ([section 70C of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/2011/20/section/123/enacted) (<http://www.legislation.gov.uk/ukpga/2011/20/section/123/enacted>)). No appeal under ground (a) may be made if an enforcement notice is issued within the time allowed for determination of a retrospective planning application.

Paragraph: 013 Reference ID: 17b-013-20140306

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# Obtaining information about alleged breaches of planning control

## Why is information about an alleged breach of planning control important?

Effective enforcement action relies on accurate information about an alleged breach of planning control.

In many instances, comprehensive information about the planning history of the site and the alleged breach of control is readily available; from the local planning authority's own records, site visits and other publicly available information. It is important to keep documentary evidence of any investigation.

Where necessary, local planning authorities also have a range of investigative powers for planning enforcement purposes. One option available is for the local planning authority to serve a [planning contravention notice](#).

Paragraph: 014 Reference ID: 17b-014-20140306

Revision date: 06 03 2014

## Planning contravention notice

### What does a planning contravention notice do?

A planning contravention notice may be issued under [section 171C of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171C>) and can be used to do the following:

- allow the local planning authority to require any information they want for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
- can be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.

[Model planning contravention notice](#)  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630599/Model\\_planning\\_contravention\\_notice.docx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630599/Model_planning_contravention_notice.docx))

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► [Request an accessible format.](#)

Paragraph: 015 Reference ID: 17b-015-20140306

Revision date: 06 03 2014

## **When can a planning contravention notice be used?**

A planning contravention notice may only be served when it appears to the local planning authority that a breach of planning control may have occurred and they want to find out more information before deciding what if any enforcement action to take. It should not be used to undertake an investigative trawl just to satisfy the local planning authority about what activities are taking place on a parcel of land.

This is a discretionary procedure – the local planning authority need not serve a planning contravention notice before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action.

A planning contravention notice is not available for use where there are suspected breaches of listed building control, hazardous substances control or control of protected trees.

There is no requirement to enter a planning contravention notice in the local planning authority's register of enforcement notices, stop notices and breach of condition notices. The notice is not a legal charge on the land.

Paragraph: 015b Reference ID: 17b-015-20140306

Revision date: 06 03 2014

## **What are the consequences of failing to respond to a notice?**

A failure to complete or return a notice within 21 days is an offence, as is providing false or misleading information on the notice ([section 171D of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171D>)).

Paragraph: 016 Reference ID: 17b-016-20140306

Revision date: 06 03 2014

## **Enforcement notice**

### **Deciding whether to issue an enforcement notice**

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The power to issue an enforcement notice is discretionary ([section 172 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/172) (<http://www.legislation.gov.uk/ukpga/1990/8/section/172>)).

An enforcement notice should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.

[Further guidance on when enforcement action should be taken.](#)

Paragraph: 018 Reference ID: 17b-018-20140306

Revision date: 06 03 2014

## **What does an enforcement notice do?**

An enforcement notice should enable every person who receives a copy to know:

- exactly what, in the local planning authority's view, constitutes the breach of planning control; and
- what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach

The local planning authority must enclose with the enforcement notice information about how to make an appeal. This information is contained in the [information sheet](https://www.gov.uk/government/publications/enforcement-appeals-appeal-information-sheet-for-local-planning-authorities) (<https://www.gov.uk/government/publications/enforcement-appeals-appeal-information-sheet-for-local-planning-authorities>) provided by the Planning Inspectorate which local planning authorities should use. Every copy of the enforcement notice must also be accompanied by an Explanatory Note containing the information specified in [regulation 5 of the Town and Country Planning \(Enforcement Notices and Appeals\) \(England\) Regulations 2002](http://www.legislation.gov.uk/uksi/2002/2682/regulation/5/made) (<http://www.legislation.gov.uk/uksi/2002/2682/regulation/5/made>) (as amended).

Enforcement notices are not improved by over-elaborate wording or legalistic terms: plain English is always preferable. An eventual prosecution under [section 179](http://www.legislation.gov.uk/ukpga/1990/8/section/179) (<http://www.legislation.gov.uk/ukpga/1990/8/section/179>) of the Act may fail if the Court finds the terms of the notice incomprehensible to the lay person.

## [Example enforcement notice – operational development](#)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/548727/17b-061-20140120\\_example-enforcement-notice-operational-](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/548727/17b-061-20140120_example-enforcement-notice-operational-)

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Paragraph: 019 Reference ID: 17b-019-20180222

Revision date: 22 02 2018 See [previous version](#)  
(<http://webarchive.nationalarchives.gov.uk/+/https://www.gov.uk/guidance/ensuring-effective-enforcement#Enforcement-Notice>)

## **Is it possible to take enforcement action against only some parts of a breach of planning consent?**

A local planning authority 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](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/173>)).

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.

Paragraph: 020 Reference ID: 17b-020-20140306

Revision date: 06 03 2014

## **Is there a right of appeal against an enforcement notice?**

There is a right of [appeal](#) (<https://www.gov.uk/guidance/appeals#Enforcement-appeal>) against an enforcement notice.

Paragraph: 021 Reference ID: 17b-021-20140306

Revision date: 06 03 2014

## **What happens if an enforcement notice is not complied with?**

It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed, and there is no outstanding appeal.

A person guilty of an offence is liable on conviction to an unlimited fine. In determining the amount of any fine, the Court is to have regard to any financial benefit which has been accrued or appears likely to accrue in consequence of the

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<http://www.legislation.gov.uk/ukpga/1990/8/section/179>)). Therefore, prosecuting authorities should always be ready to give any available details about the proceeds resulting, or likely to result, from the offence, so that the Court may take them into account.

Where a local planning authority achieves a successful conviction for failure to comply with an enforcement notice, they can apply for a Confiscation Order, under the [Proceeds of Crime Act 2002](http://www.legislation.gov.uk/ukpga/2002/29/part/2) (<http://www.legislation.gov.uk/ukpga/2002/29/part/2>), to recover the financial benefit obtained through unauthorised development.

Paragraph: 022 Reference ID: 17b-022-20170728

Revision date: 28 07 2017 See [previous version](http://webarchive.nationalarchives.gov.uk/20170616235851/https://www.gov.uk/guidance/enforcing-effective-enforcement#Enforcement-Notice) (<http://webarchive.nationalarchives.gov.uk/20170616235851/https://www.gov.uk/guidance/enforcing-effective-enforcement#Enforcement-Notice>)

## Local authority default powers

The local planning authority has powers to enter enforcement notice land and carry out the requirements of the notice themselves ([section 178 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/178) (<http://www.legislation.gov.uk/ukpga/1990/8/section/178>)). It is an offence to wilfully obstruct anyone who is exercising those powers on the local planning authority's behalf.

These default powers should be used when other methods have failed to persuade the owner or occupier of land to carry out, to the local planning authority's satisfaction, any steps required by an enforcement notice.

Further, the local planning authority can recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work ([regulation 14 Town and Country Planning General Regulations 1992](http://www.legislation.gov.uk/uksi/1992/1492/regulation/14/made) (<http://www.legislation.gov.uk/uksi/1992/1492/regulation/14/made>)).

A local planning authority can prosecute for a failure to comply with a notice as well as using default powers.

Paragraph: 023 Reference ID: 17b-023-20140306

Revision date: 06 03 2014

## Planning enforcement order

### What does a planning enforcement order do?

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action ([section 171B of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171B)

<http://www.legislation.gov.uk/ukpga/1990/8/section/171B>)) have expired. A planning enforcement order enables an authority to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

Paragraph: 024 Reference ID: 17b-024-20140306

Revision date: 06 03 2014

## **What are the requirements for obtaining a planning enforcement order?**

A local planning authority must have sufficient evidence of the apparent breach of planning control to justify applying for a planning enforcement order ([sections 171BA, 171BB and 171BC of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/2011/20/section/124/enacted>)).

The application may 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 evidence of that fact.

The application must be made to a magistrates' court and a copy must be served on the owner and occupier of the land, and on anyone else with an interest in the land which, in the local planning authority's opinion, would be materially affected by the taking of enforcement action in respect of the breach. The applicant, any person who has been served with the application, and any other person the court thinks has an interest in the land that would be materially affected by the enforcement action. have a right to appear before, and be heard by, the court hearing the application.

Paragraph: 025 Reference ID: 17b-025-20180222

Revision date: 22 02 2018 See [previous version](#) (<http://webarchive.nationalarchives.gov.uk/+https://www.gov.uk/guidance/ensuring-effective-enforcement#Planning-Enforcement-Order>)

## **What evidence is needed to obtain a planning enforcement order?**

A magistrates' court may only make a planning enforcement order if it is satisfied on the balance of probabilities that the apparent breach of planning control (or any of the matters constituting that breach) has (to any extent) been deliberately concealed and that it is just to make the order having regard to all the circumstances.

Planning enforcement orders can only be made where the developer has deliberately concealed the unauthorised development. In these circumstances, evidence that the developer has taken positive steps to conceal the unauthorised development, rather than merely refraining from informing the local planning

It is expected that planning enforcement orders will be focused on the worst cases of concealment.

Paragraph: 026 Reference ID: 17b-026-20140306

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## **What is the effect of a planning enforcement order?**

The effect of a planning enforcement order is that the local planning authority will be able to take enforcement action against the apparent breach of planning control or any of the matters constituting the apparent breach during the “enforcement year”. This means that once the “enforcement year” has begun, the local planning authority can at any time during that year, take enforcement action in respect of the apparent breach of planning control or any of the matters constituting that breach.

The “enforcement year” does not begin until the end of 22 days starting with the day on which the court’s decision to make the order is given, or when any appeal against the order has been finally dismissed, or the appeal withdrawn.

A local planning authority may make an application even if the normal time limit for enforcement action has not expired. This is to allow for the possibility that evidence may come to light very close to the end of the normal time limits for taking enforcement action, when there may be insufficient time to draft and issue an enforcement notice, or where there may be doubt as to when the time limits actually expire. For example, where the date of substantial completion is not certain.

The local planning authority is not prevented from taking enforcement action once the enforcement year has ended provided that the normal time limits for enforcement action have not expired ([section 171BA of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/2011/20/section/124/enacted) (<http://www.legislation.gov.uk/ukpga/2011/20/section/124/enacted>)).

Paragraph: 027 Reference ID: 17b-027-20180222

Revision date: 22 02 2018 See [previous version](http://webarchive.nationalarchives.gov.uk/+/https://www.gov.uk/guidance/ensuring-effective-enforcement#Planning-Enforcement-Order) (<http://webarchive.nationalarchives.gov.uk/+/https://www.gov.uk/guidance/ensuring-effective-enforcement#Planning-Enforcement-Order>)

## **Stop notice**

### **What does a stop notice do?**

A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in the related enforcement notice, ahead of the deadline for compliance in that enforcement notice ([section 183 of the Town and Country Planning Act 1990](#))

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A stop notice cannot be served independently of an enforcement notice.

### Model stop notice

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630600/Model\\_stop\\_notice.docx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630600/Model_stop_notice.docx)

MS Word Document, 22.5 KB

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Paragraph: 028 Reference ID: 17b-028-20140306

Revision date: 06 03 2014

### **How quickly can a stop notice take effect?**

The local planning authority must specify in the stop notice when it is to take effect. The effective date must normally be no less than 3 days (or later than 28 days) after the date when the notice is served. ([section 184\(3\) of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/184>)).

When there are special reasons for specifying an earlier date a stop notice may take effect before 3 days, in which case, a statement of reasons must be served with it. For example, it may be considered essential to protect an Area of Outstanding Natural Beauty, Green Belt or conservation area, from operational development (such as buildings, roadways or other hard surfaces) which if it continued, would be especially harmful.

Paragraph: 029 Reference ID: 17b-029-20140306

Revision date: 06 03 2014

### **Are there any restrictions on what a stop notice can prohibit?**

There are restrictions on what a stop notice can prohibit. These are set out in [section 183 of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/183>). One important restriction is that a stop notice may not prohibit the use of any building as a dwelling house, although it may be used to prohibit the use of land as a site for a caravan occupied by a person as his or her own main residence.

Paragraph: 030 Reference ID: 17b-030-20140306

Revision date: 06 03 2014

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## **Could the local planning authority be liable for compensation as a result of serving a stop notice?**

Where the associated enforcement notice is quashed, varied or withdrawn or the stop notice is withdrawn compensation may be payable in certain circumstances and subject to various limitations ([section 186 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/186) (<http://www.legislation.gov.uk/ukpga/1990/8/section/186>)).

Paragraph: 031 Reference ID: 17b-031-20140306

Revision date: 06 03 2014

## **How does a local planning authority decide whether to serve a stop notice?**

The power to serve a stop notice is discretionary. Before serving such a notice a local planning authority must be satisfied that it is expedient that any relevant activity should cease before the expiry of the period for compliance specified in an enforcement notice.

The relevant local planning authority should ensure that an assessment of the likely consequences of serving the notice is available to the Committee or officer who will authorise service of it. The assessment should examine among other things the foreseeable cost and benefits likely to result from the stop notice.

The local planning authority should ensure that a stop notice's requirements prohibit only what is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.

Before deciding to serve a stop notice, the local planning authority's representative should discuss, whenever practicable, with the person carrying on the activity, whether there is any alternative means of production or operation which would overcome the objections to it in an environmentally and legally acceptable way.

Paragraph: 032 Reference ID: 17b-032-20140306

Revision date: 06 03 2014

## **What about human rights?**

The provisions of the [European Convention on Human Rights](http://echr.coe.int/Documents/Convention_ENG.pdf) ([http://echr.coe.int/Documents/Convention\\_ENG.pdf](http://echr.coe.int/Documents/Convention_ENG.pdf)), such as Article 1 of the First Protocol, Article 8 and Article 14, are relevant. In some instances there is a clear public interest in taking rapid action to address breaches of planning control. To ensure that this is a proportionate approach, before serving a stop notice, the local planning authority must be satisfied that there has been a breach of planning control and that the activity which amounts to the breach must be stopped immediately and before the end of the period allowed for compliance with the

Paragraph: 033 Reference ID: 17b-033-20140306

Revision date: 06 03 2014

## **What are the penalties for contravention of a stop notice?**

A person who contravenes a stop notice after a site notice has been displayed, or the stop notice has been served on them, is guilty of an offence ([section 187\(1\) of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/187>)).

A person guilty of this offence is liable on conviction to an unlimited fine. In determining the amount of fine imposed the Court is to have regard to any financial benefit which has accrued, or appears likely to accrue, in consequence of the offence.

Paragraph: 034 Reference ID: 17b-034-20170728

Revision date: 28 07 2017 See [previous version](#) (<http://webarchive.nationalarchives.gov.uk/20170616235851/https://www.gov.uk/guidance/enforcing-effective-enforcement#Stop-Notice>)

## **How can a stop notice be challenged?**

There is no right of appeal to the Secretary of State against the prohibitions in a stop notice. The validity of a stop notice, and the propriety of the local planning authority's decision to issue a notice, may be challenged by application to the High Court for judicial review.

Paragraph: 035 Reference ID: 17b-035-20140306

Revision date: 06 03 2014

## **Temporary stop notice**

### **Why are temporary stop notices important?**

Temporary stop notices are a powerful enforcement tool that allows local planning authorities to act very quickly to address some breaches of planning control, such as unauthorised activities, where it is expedient to do so. Temporary stop notice may prohibit a range of activities, including those that take place on the land intermittently or seasonally.

Paragraph: 036 Reference ID: 17b-036-20140306

Revision date: 06 03 2014

A temporary stop notice ([section 171E of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171E) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171E>)) requires that an activity which is a breach of planning control should stop immediately.

A temporary stop notice must state the date the temporary stop notice has been served, the activity that has to cease, and that any person contravening it may be prosecuted for an offence.

[Model temporary stop notice](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822107/Model_temporary_stop_notice.docx)  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/822107/Model\\_temporary\\_stop\\_notice.docx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822107/Model_temporary_stop_notice.docx))

MS Word Document, 20.7 KB

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► [Request an accessible format.](#)

Paragraph: 037 Reference ID: 17b-037-20140306

Revision date: 06 03 2014

### **How is this different to a stop notice?**

A temporary stop notice does not have to wait for an enforcement notice to be issued and the effect of the temporary stop notice is immediate.

Paragraph: 038 Reference ID: 17b-038-20140306

Revision date: 06 03 2014

### **Are there any restrictions on what a temporary stop notice can prohibit?**

There are restrictions on what a temporary stop notice can prohibit ([section 171F of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171F) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171F>)):

- a temporary stop notice can require an activity to cease, or reduce or minimise the level of activity. Because a temporary stop notice is prohibitory, it is not appropriate for use in any circumstances which require positive action to be taken in response to it. The “immediate” cessation of activities should allow for the shutting down and making safe of an activity;
- a temporary stop notice may not prohibit the use of a building as a dwelling

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## **How long can a temporary notice last?**

A temporary stop notice expires 28 days after the display of the notice on site (or any shorter period specified). At the end of the 28 days there is the risk of the activity resuming if an enforcement notice is not issued and a stop notice served.

It is not possible to issue a further temporary stop notice unless the local planning authority has first taken some other enforcement action against the breach of planning control ([section 171F\(5\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171F) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171F>)).

## **How does a local planning authority decide whether to serve a temporary notice?**

Before issuing a temporary stop notice, the local planning authority must be satisfied that there has been a breach of planning control and that “it is expedient that the activity which amounts to the breach is stopped immediately” ([section 171E\(1\)\(b\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171E) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171E>)). The local planning authority must give reasons for issuing the temporary stop notice on the face of the notice ([section 171E\(3\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171E) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171E>)).

The effect of issuing a temporary stop notice will be to halt the breach of planning control, or the specified activity immediately. This can have immediate serious consequences on a business. Local planning authorities should therefore ensure that a quick but adequate assessment of the likely consequences of issuing a temporary stop notice is available to the officer who will authorise issue of the notice.

It should not be necessary to carry out a detailed cost/benefit assessment, but the assessment should examine the foreseeable costs to the company, operator, or landowner, against whose activities the stop notice is directed and the benefit to amenity in the vicinity of the site which is likely to result from a temporary stop notice.

The local planning authority should ensure that a temporary stop notice's requirements prohibit only what is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.

Before deciding to serve a temporary stop notice, the local planning authority's representative may choose to discuss, whenever practicable, with the person carrying on the activity whether there is any alternative means of production or operation which would overcome the objections to it in an environmentally and legally acceptable way.

Paragraph: 041 Reference ID: 17b-041-20140306

Revision date: 06 03 2014

### **What about human rights?**

The provisions of the [European Convention on Human Rights](http://echr.coe.int/Documents/Convention_ENG.pdf) ([http://echr.coe.int/Documents/Convention\\_ENG.pdf](http://echr.coe.int/Documents/Convention_ENG.pdf)), such as [Article 1 of the First Protocol](http://echr.coe.int/Documents/Convention_ENG.pdf), [Article 8](http://echr.coe.int/Documents/Convention_ENG.pdf) and [Article 14](http://echr.coe.int/Documents/Convention_ENG.pdf) ([http://echr.coe.int/Documents/Convention\\_ENG.pdf](http://echr.coe.int/Documents/Convention_ENG.pdf)), are relevant. In some instances there is a clear public interest in taking rapid action to address breaches of planning control. To ensure that this is a proportionate approach, before serving a temporary stop notice, the local planning authority must be satisfied that there has been a breach of planning control and “it is expedient that the activity which amounts to the breach is stopped immediately” ([section 171E\(1\)\(b\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171E) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171E>)).

Paragraph: 042 Reference ID: 17b-042-20140306

Revision date: 06 03 2014

### **What are the penalties for contravention of a temporary stop notice?**

It is an offence to contravene a temporary stop notice, and a local planning authority should always consider prosecution as soon they have evidence of an offence ([section 171G of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171G) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171G>)).

A person guilty of an offence is liable on conviction to an unlimited fine.

Paragraph: 043 Reference ID: 17b-043-20170728

Revision date: 28 07 2017 See [previous version](http://webarchive.nationalarchives.gov.uk/20170616235851/https://www.gov.uk/guidance/ensuring-effective-enforcement#Temporary-Stop-Notice) (<http://webarchive.nationalarchives.gov.uk/20170616235851/https://www.gov.uk/guidance/ensuring-effective-enforcement#Temporary-Stop-Notice>)

### **How can a temporary stop notice be challenged?**

Any person affected by a temporary stop notice will be able to make representations to the local planning authority to challenge the temporary stop notice. The local planning authority should include the name, address and telephone number of their nominated officer in the temporary stop notice

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There is no right of appeal to the Secretary of State against the prohibitions in a temporary stop notice. The validity of a temporary stop notice, and the propriety of the local planning authority's decision to issue a temporary stop notice, may be challenged by application to the High Court for judicial review.

Paragraph: 044 Reference ID: 17b-044-20140306

Revision date: 06 03 2014

### **Is compensation payable?**

Only in certain circumstances is compensation payable. A person who at the time the temporary stop notice is served has an interest in the land to which the notice relates may be entitled to compensation by the local planning authority for any loss or damage directly attributable to the prohibition effected by the temporary stop notice. The scope for compensation is set out in [section 171H of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/171H) (<http://www.legislation.gov.uk/ukpga/1990/8/section/171H>). It should be noted compensation is only payable if one or more of the following applies:

- a. the activity specified in the temporary stop notice was the subject of an existing planning permission and any conditions attached to the planning permission have been complied with;
- b. it is [permitted development](https://www.gov.uk/guidance/when-is-permission-required) (<https://www.gov.uk/guidance/when-is-permission-required>) (including under a local or neighbourhood development order);
- c. the local planning authority issue a lawful development certificate confirming that the development was lawful;
- d. the local planning authority withdraws the temporary stop notice for some reason, other than because it has granted planning permission for the activity specified in the temporary stop notice after the issue of the temporary stop notice.

Paragraph: 045 Reference ID: 17b-045-20140306

Revision date: 06 03 2014

### **Can a temporary stop notice be used on land not owned by those living on it?**

Yes. It may be appropriate in some circumstances for the local planning authority to issue a temporary stop notice where the breach of planning control has occurred on land owned by a third party, including the local authority or another public authority.

Paragraph: 065 Reference ID: 17b-065-20150323

Revision date: 23 03 2015

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# Breach of condition notice

## What does a breach of condition notice do?

A breach of conditions notice requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the local planning authority in the notice ([section 187A of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/187A>)).

Any recipient of a breach of condition notice will be in breach of the notice if, after the compliance period, any condition specified in it has not been complied with, and the steps specified have not been taken or the activities specified have not ceased.

## Model breach of conditions notice

([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/548730/17b-064-20140120\\_model-breach-of-condition-notice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/548730/17b-064-20140120_model-breach-of-condition-notice.pdf))

PDF, 16 KB, 2 pages

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Paragraph: 046 Reference ID: 17b-046-20140306

Revision date: 06 03 2014

## When can a breach of condition notice be used?

A breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of condition – but it may also be served in addition to an enforcement notice, perhaps as an alternative to a stop notice, where the local planning authority consider it expedient to stop the breach quickly and before any appeal against the enforcement notice is determined.

Paragraph: 047 Reference ID: 17b-047-20140306

Revision date: 06 03 2014

## What happens if a breach of condition notice is not fully complied with?

Following the end of the period for compliance, a “person responsible” who has not ensured full compliance with the conditions and any specified steps, will be in

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<http://www.legislation.gov.uk/ukpga/1990/8/section/187A>). Summary prosecution can be brought in the Magistrates' Court for the offence of contravening a breach of condition notice.

Paragraph: 048 Reference ID: 17b-048-20140306

Revision date: 06 03 2014

## **How can a breach of condition notice be challenged?**

There is no right of appeal to the Secretary of State against a breach of condition notice. The validity of a breach of condition notice, and the propriety of the local planning authority's decision to serve a breach of condition notice, may be challenged by application to the High Court for judicial review.

Paragraph: 049 Reference ID: 17b-049-20140306

Revision date: 06 03 2014

## **Injunction**

### **How does a local authority decide whether seeking an injunction to restrain a breach of planning control is appropriate?**

A local planning authority can, where they consider it expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control ([section 187B of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/187B) (<http://www.legislation.gov.uk/ukpga/1990/8/section/187B>)).

In deciding whether it is necessary or expedient to seek an injunction, local planning authorities may find it helpful to consider whether:

- they have taken account of what appear to be relevant considerations, including the personal circumstances of those concerned;
- there is clear evidence that a breach of planning control has already occurred, or is likely to occur;
- injunctive relief is a proportionate remedy in the circumstances of the particular case;
- in the case of an injunction sought against a person whose identity is unknown, it is practicable to serve the Court's order on the person or persons to whom it will apply;

- a local planning authority can apply for an injunction whether or not it has exercised, or proposes to exercise, any of their other powers to enforce planning control. However, proceedings for an injunction are the most serious enforcement action that a local planning authority can take because if a person fails to comply with an injunction they can be committed to prison for contempt of court. Additionally, once an injunction has been granted, it cannot be discharged except where there has been a significant change of circumstances since the order was made. In these circumstances a local planning authority should generally only apply for an injunction as a last resort and only if there have been persistent breaches of planning control over long period and/or other enforcement options have been, or would be, ineffective. The Court is likely to expect the local planning authority to explain its reasons on this issue.

Paragraph: 050 Reference ID: 17b-050-20140306

Revision date: 06 03 2014

### **Seeking an injunction against an unknown person**

The Court may grant an injunction against a person whose identity is unknown ([section 187B\(3\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/187B) (<http://www.legislation.gov.uk/ukpga/1990/8/section/187B>)). Nevertheless local planning authorities will need to identify, to the best of their ability, the person against who the injunction is sought. The following may be used in support of the authority's submission to the Court:

- photographic evidence of the persons concerned;
- affidavit evidence sworn by the local planning authority's officers;
- reference to chattels on the land, known to belong to, or be used by, that person (eg a registered motor vehicle); or
- other relevant evidence (such as a name by which the person is commonly known even though it is not his or her proper name).

When applying to the Court, the local planning authority will have to provide affidavit evidence of their inability to ascertain the identity of the person, within the time reasonably available, and the steps taken in attempting to do so.

Paragraph: 051 Reference ID: 17b-051-20140306

Revision date: 06 03 2014

## What rights of entry are permitted?

Local planning authorities and Justices of the Peace can authorise named officers to enter land specifically for enforcement purposes ([sections 196A, 196B and section 196C of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/part/VII/crossheading/rights-of-entry-for-enforcement-purposes>)). This right is limited to what is regarded as essential, in the particular circumstances, for effective enforcement of planning control.

The Act specifies the purposes for which entry to land may be authorised ([section 196A\(1\) of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/196A>)), namely:

- to ascertain whether there is or has been any breach of planning control on the land or any other land;
- to determine whether any of the local planning authority's enforcement powers should be exercised in relation to the land, or any other land;
- to determine how any such power should be exercised; and
- to ascertain whether there has been compliance with any requirement arising from earlier enforcement action in relation to the land, or any other land.

The phrase “or any other land” means that if necessary neighbouring land can be entered, whether or not it is in the same ownership, or is being occupied by the person whose land is being investigated.

The provisions of the Act ([section 196A of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/196A>)) state there must be reasonable grounds for entering the land for the purpose in question. This is interpreted to mean that entering the land is the logical means of obtaining the information required by the local planning authority.

Paragraph: 052 Reference ID: 17b-052-20140306

Revision date: 06 03 2014

## What happens if right of entry is obstructed?

It is an offence to wilfully obstruct an authorised person acting in exercise of a right of entry ([section 196C\(2\) of the Town and Country Planning Act 1990](#) (<http://www.legislation.gov.uk/ukpga/1990/8/section/196C>)).

Paragraph: 053 Reference ID: 17b-053-20140306

Revision date: 06 03 2014

Are there any restrictions or controls in relation to rights of entry?

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There are a number of restrictions on the right of entry, including:

### **1. Damage to land or chattels:**

Local planning authorities are expected to take every reasonable precaution to ensure no damage is caused as a result of exercising a right of entry. Where damage is caused, compensation may be recovered from the authorising authority.

### **2. Agricultural land:**

In the interests of animal and plant health special precautions are essential when the right of entry is exercised. Additional precautions must be taken when there is an outbreak of serious disease in animals or a serious plant pest or pathogen. As not all diseases require warning notices local planning officers should contact the appropriate [Animal Health Veterinary Laboratories Agency's Field Office](https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/access-and-opening#field-services) (<https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/access-and-opening#field-services>) and the [Plant Health and Seeds Inspectorate Regional Office](https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/access-and-opening#plant-health-offices) (<https://www.gov.uk/government/organisations/animal-and-plant-health-agency/about/access-and-opening#plant-health-offices>) to check there are no restrictions in force on land to be visited.

### **3. Disclosure of information:**

It is an offence to disclose any information obtained while on the land about any manufacturing process or trade secret.

### **4. Dwellinghouses:**

Entry to a building used as a dwelling house cannot be demanded as of right unless 24 hours advanced notice of intended entry to the occupier has been given.

Paragraph: 054 Reference ID: 17b-054-20140306

Revision date: 06 03 2014

## **Entry authorised by warrant issued by a Justice of the Peace**

Where there are reasonable grounds for entering land for enforcement purposes, and entry is refused or is reasonably likely to be refused, or there is a need for urgency, then it is possible for a Justice of the Peace to issue a warrant to allow entry ([section 196B\(1\) of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/196B) (<http://www.legislation.gov.uk/ukpga/1990/8/section/196B>)).

There are 3 restrictions on the use of a warrant:

- it only authorises entry on one occasion;
- entry must be within one month from the date of the issue of the warrant;

## Enforcement on Crown land

### Is enforcement action possible in relation to Crown Land?

Enforcement action is possible in relation to Crown Land, but there some restrictions which do not apply elsewhere. [Sections 296A and 296B of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/contents) (<http://www.legislation.gov.uk/ukpga/1990/8/contents>) restrict such actions as serving enforcement notices, stop notices, revocation orders and discontinuance orders on the Crown.

The restrictions apply to all land in which a Crown body has any interest. Where a Crown body does have an interest, anything which must or may be done by or to the owner of the interest in land must be done by or to the appropriate authority ([section 293 of the Town and Country Planning Act 1990](http://www.legislation.gov.uk/ukpga/1990/8/section/293) (<http://www.legislation.gov.uk/ukpga/1990/8/section/293>)). An interest in land includes an interest only as an occupier of the land.

Subject to these restrictions, a local planning authority can serve a notice or make an order (other than a court order) intended to enforce compliance on Crown land without having to follow any procedures other than those which are already set out in the planning Acts as being generally applicable. There is no requirement to obtain the consent of the appropriate authority before serving the notice or making the order.

A local planning authority cannot, however, enter land for any purposes connected with the making or enforcing of any such notice or order without first securing the consent of the relevant Crown body. And, in granting such consent, the appropriate authority may impose such conditions as it considers appropriate. This might mean, for example, that any site visit by the local planning authority has to be accompanied, to take place at a pre-arranged time and/or to exclude certain parts of the site.

The local planning authority is also required to secure the consent of the appropriate authority. before taking any action to enforce the notice or order, even against a non-Crown interest, such as a private leaseholder on a Crown freehold. This includes bringing proceedings or making an application to the courts.

The Crown is also immune from prosecution under these provisions.

## **What enforcement action can be taken against breaches of listed building consent?**

The listed building enforcement provisions are in [sections 38 to 46 of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](http://www.legislation.gov.uk/ukpga/1990/9/part/II/chapter/IV) (<http://www.legislation.gov.uk/ukpga/1990/9/part/II/chapter/IV>), and the enforcement provisions relating to the demolition of an unlisted building in a conservation area (“relevant demolition”) are in the Town and Country Planning Act 1990. Although broadly similar, there are a number of important differences between planning enforcement and listed building and conservation area enforcement, namely:

- there are no application fees for listed building consent or applications for relevant demolition;
- there are no time-limits for issuing listed building enforcement notices or for when enforcement action may be taken in relation to a breach of planning control with respect to relevant demolition, although the length of time that has elapsed since the apparent breach may be a relevant consideration when considering whether it is expedient to issue a listed building enforcement notice;
- carrying out work without the necessary listed building consent, or failing to comply with a condition attached to that consent, whereby such works etc materially affect the historic or architectural significance of the building, is an offence under section 9 of that Act – whether or not an enforcement notice has first been issued;
- carrying out work without the required planning permission for relevant demolition, or failing to comply with a condition attached to that planning permission is an offence under section 196D of the Town and Country Planning Act 1990, and;
- listed building consent and planning permission for relevant demolition are not granted retrospectively.

Paragraph: 057 Reference ID: 17b-057-20140306

Revision date: 06 03 2014

## **Enforcement of hazardous substances control**

### **What enforcement action can be taken against breaches of hazardous substances consent?**

The Planning (Hazardous Substances) Act 1990 requires hazardous substances

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enforcing against breaches of control generally follow the planning enforcement provisions, so far as they are appropriate, and a contravention of hazardous substances control is itself an offence.

Paragraph: 058 Reference ID: 17b-058-20140306

Revision date: 06 03 2014

## Unauthorised advertisements

### Tackling unauthorised advertisements and defacement of premises

More information about [tackling unauthorised advertisements and defacement of premises \(https://www.gov.uk/guidance/advertisements#enforcement-against-specific-unauthorised-advertisements\)](https://www.gov.uk/guidance/advertisements#enforcement-against-specific-unauthorised-advertisements).

Paragraph: 059 Reference ID: 17b-059-20140306

Revision date: 06 03 2014

## Enforcement and protected trees

More information about [tackling damage to protected trees \(https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#enforcing-tree-protection-offences\)](https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#enforcing-tree-protection-offences).

Paragraph: 060 Reference ID: 17b-060-20140306

Revision date: 06 03 2014

## Model notices

[Model planning contravention notice \(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630599/Model\\_planning\\_contravention\\_notice.docx\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630599/Model_planning_contravention_notice.docx)

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## [Example enforcement notice – operational development](#)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/548727/17b-061-20140120\\_example-enforcement-notice-operational-development.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/548727/17b-061-20140120_example-enforcement-notice-operational-development.pdf)

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## [Model stop notice](#)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630600/Model\\_stop\\_notice.docx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630600/Model_stop_notice.docx)

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## [Model temporary stop notice](#)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/822107/Model\\_temporary\\_stop\\_notice.docx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822107/Model_temporary_stop_notice.docx)

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## [Model breach of conditions notice](#)

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PDF, 16 KB, 2 pages

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## Unauthorised encampments

### **Does the absence of authorised sites prevent local authorities from taking enforcement action against unauthorised encampments?**

No – an absence of authorised sites does not mean that a local authority or the police cannot take enforcement action against unauthorised encampments.

Paragraph: 066 Reference ID: 17b-066-20150901

Revision date: 01 09 2015

### **What powers do local authorities and the police have to take against unauthorised encampments?**

In March 2015 [the government wrote](https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments) (<https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>) to council leaders, police and crime commissioners, and police chief constables summarising the extensive powers they have to help them deal with illegal and unauthorised sites.

Paragraph: 067 Reference ID: 17b-067-20150901

Revision date: 01 09 2015

## Build-out

### **What action can local planning authorities take to encourage the implementation of housing permissions?**

When granting planning permission, the National Planning Policy Framework encourages local planning authorities to consider imposing a condition that development is begun within a shorter time period than the standard 3-year period to help ensure that proposals for housing development are implemented in a timely manner.

To support the implementation of planning permissions for residential development following consent, local planning authorities will want to ensure planning conditions which require their approval are discharged effectively and any outstanding [planning obligations](https://www.gov.uk/guidance/planning-obligations) (<https://www.gov.uk/guidance/planning-obligations>) are agreed quickly.

There are statutory consultees and other third parties whose action is also necessary, in particular, county councils as highways authorities. Local planning authorities should take an active role in chasing the county council to implement local highways matters

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Local planning authorities also have several planning tools available to encourage stalled housing development to be brought forward. These include:

- [Section 215 of the Town and Country Planning Act 1990](#) (<https://www.legislation.gov.uk/ukpga/1990/8/section/215>) provides a local planning authority with the power, in certain circumstances, to require land to be cleaned up when its condition adversely affects the amenity of the area. This could include development land where a project has stalled. See [best practice guidance](#) (<https://www.gov.uk/government/publications/town-and-country-planning-act-1990-section-215-best-practice-guidance>).
- Under [section 94 of the Town and Country Planning Act 1990](#) (<https://www.legislation.gov.uk/ukpga/1990/8/section/94>), a local planning authority may serve a completion notice when development has been commenced in accordance with the time limit imposed by condition, but that period has elapsed without the development having been completed and the local planning authority believe the development will not be completed within a reasonable period.
- As a last resort, the use of compulsory purchase powers under [section 226 of the Town and Country Planning Act 1990](#) (<https://www.legislation.gov.uk/ukpga/1990/8/section/226>) may have a role in unlocking stalled development. There would need to be a compelling case in the public interest to justify the use of compulsory purchase, and compensation must be paid. Further information can be found in the government's guidance on the [compulsory purchase process and Crichel Down Rules](#) (<https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>).

Paragraph: 068 Reference ID: 17b-068-20190722

Revision date: 22 07 2019

## Completion notices

### What is a completion notice?

A completion notice can be served on an owner or occupier in relation to an uncompleted development, which, if not complied with, results in the relevant planning permission being invalid.

Paragraph: 069 Reference ID: 17b-069-20190722

Revision date: 22 07 2019

### In what circumstances can a completion notice be issued?

Local planning authorities may issue a completion notice where development has

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A completion notice may be served where planning permission has been implemented before the commencement deadline but has not been completed after this deadline has elapsed.

The legal powers are set out in [sections 94-96 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/94) (<https://www.legislation.gov.uk/ukpga/1990/8/section/94>).

Paragraph: 070 Reference ID: 17b-070-20190722

Revision date: 22 07 2019

### **What should a completion notice include?**

The contents of a completion notice are not set out in regulations, but including the following information will help the owner/occupier understand:

- the reasons why, in the local planning authority's opinion, the development will not be completed within a reasonable time;
- what the owner (or any other person served with the notice) must do if he disagrees with the completion order, and the date by which any request for a hearing must be made to the Secretary of State; and
- the implications of not complying with the notice by the time specified in the notice, the result being that the planning permission shall become invalid.

Paragraph: 071 Reference ID: 17b-071-20190722

Revision date: 22 07 2019

### **When does a completion notice take effect?**

The completion notice only takes effect once it has been confirmed by the Secretary of State. If a completion notice takes effect, the planning permission referred to in it shall become invalid at the expiration of the period specified in the notice, which must [not be fewer than 12 months](https://www.legislation.gov.uk/ukpga/1990/8/section/94) (<https://www.legislation.gov.uk/ukpga/1990/8/section/94>), or such longer period as may be determined by the Secretary of State.

Paragraph: 072 Reference ID: 17b-072-20190722

Revision date: 22 07 2019

### **What are the publicity requirements?**

A notice must be served on:

(a) the owner of the land

(c) any other person who in the opinion of the local planning authority will be affected by the notice.

Where the local planning authority decides to withdraw the completion notice after it has been served, it must give immediate notice of the withdrawal to every person who was served with the completion notice.

Paragraph: 073 Reference ID: 17b-073-20190722

Revision date: 22 07 2019

### **How long does the owner of the land have to comply with the notice?**

The local planning authority must allow a period of no fewer than [28 days](https://www.legislation.gov.uk/ukpga/1990/8/section/95) (<https://www.legislation.gov.uk/ukpga/1990/8/section/95>) for the person on whom the notice was served to request a hearing of a person appointed by the Secretary of State, effectively a planning inspector.

Subject to confirmation of the completion notice by the Secretary of State, the owner of the land will have a period specified in the notice – [no fewer than 12 months](https://www.legislation.gov.uk/ukpga/1990/8/section/94) (<https://www.legislation.gov.uk/ukpga/1990/8/section/94>) or such longer period as may be determined by the Secretary of State – in which to comply with the completion notice.

Paragraph: 074 Reference ID: 17b-074-20190722

Revision date: 22 07 2019

### **Is there a penalty for non-compliance?**

Non-compliance by the date specified in the completion notice, whether the original period proposed by the local planning authority or that provided by the Secretary of State, will result in the planning permission being invalidated. Any development carried out before the expiration of the period in the completion notice will not be affected.

Paragraph: 075 Reference ID: 17b-075-20190722

Revision date: 22 07 2019

## **Discontinuance notice**

### **How can a planning permission be discontinued?**

The revocation powers, as set out in [section 97 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/97) (<https://www.legislation.gov.uk/ukpga/1990/8/section/97>), described below, can only be used before the development is complete. After that date, a local planning

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authority can use a power to order discontinuance under [section 102 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/102) (<https://www.legislation.gov.uk/ukpga/1990/8/section/102>).

Section 102 of the Town and Country Planning Act 1990 enables a notice to be issued ordering the discontinuing use, alteration or removal of buildings or works. The local planning authority can issue a notice that:

- requires the use of the land or building to be discontinued;
- imposes conditions on the land or building; or
- requires steps to be taken for the alteration or removal of the building or works.

Paragraph: 076 Reference ID: 17b-076-20190722

Revision date: 22 07 2019

### **In what circumstances can a local planning authority issue a discontinuance notice?**

A local planning authority can issue a notice if, having regard to the development plan and to any other material considerations, they consider it is in the interests of the proper planning of their area, including being in the interests of amenity:

- (a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or
- (b) that any buildings or works should be altered or removed.

Paragraph: 077 Reference ID: 17b-077-20190722

Revision date: 22 07 2019

### **Is there a right of appeal?**

Appeals against the service of a discontinuance notice can only be made by people with an interest in the site in question and must follow the procedure set out in Part 2 of The Town and Country Planning (Appeals) (Written Representations) (England) Regulations 2009 (as amended). An appeal must be made before the date that the discontinuance notice will come into effect. This date is given in the notice.

Paragraph: 078 Reference ID: 17b-078-20190722

Revision date: 22 07 2019

### **Is compensation payable where a planning permission is discontinued?**

The rules relating to compensation where a planning permission has been discontinued are set out in [section 115 Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/115) (<https://www.legislation.gov.uk/ukpga/1990/8/section/115>). There may be liability for a local authority to pay compensation in respect of damage suffered due to:

- depreciation of the value of interest in the land or minerals on or under it;
- disturbance of enjoyment of the land or such minerals.

Paragraph: 079 Reference ID: 17b-079-20190722

Revision date: 22 07 2019

## Revocation of planning permission

### Can planning permission be revoked?

Local planning authorities have the power to revoke or modify planning permission under [section 97 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/97) (<https://www.legislation.gov.uk/ukpga/1990/8/section/97>) (as amended).

However, the local planning authority has no power simply to withdraw a permission unilaterally without the payment of compensation.

Paragraph: 080 Reference ID: 17b-080-20190722

Revision date: 22 07 2019

### When can planning permission be revoked?

Planning permission may be revoked or modified to such an extent by the local planning authority as the local planning authority considers expedient or where development has stalled. In doing so the authority must have regard to the development plan and to any other material considerations.

Where the permission relates to the carrying out of building or other operations, the permission can be revoked at any time before those operations have been completed; where the permission relates to a change of the use of any land, permission can be revoked at any time before the change has taken place.

Where such works or change of use has been completed, the local planning authority may want to consider the use of powers to make a discontinuance order.

Paragraph: 081 Reference ID: 17b-081-20190722

Revision date: 22 07 2019

Where there is an objection to a revocation order being made, the decision to revoke the permission must be confirmed by the Secretary of State. The order may be opposed by the owner and occupier of the land or by other persons who in the authority's opinion will be affected.

The validity of an order confirmed by the Secretary of State may be challenged by application to the High Court within 6 weeks.

Paragraph: 082 Reference ID: 17b-082-20190722

Revision date: 22 07 2019

## **Is compensation payable where planning permission is revoked?**

The rules relating to compensation where planning permission has been revoked are set out in [section 107 of the Town and Country Planning Act 1990](https://www.legislation.gov.uk/ukpga/1990/8/section/107) (<https://www.legislation.gov.uk/ukpga/1990/8/section/107>). There may be liability for a local authority to pay compensation in respect of:

- expenditure rendered abortive by the order (e.g. expenditure on preparation of plans for the purposes of works);
- for any other loss or damage directly attributable to the revocation or modification.

Section 107(3) of the Act makes clear that compensation is not payable in relation to any works carried out before the planning permission (which is being revoked by the order) was granted.

Paragraph: 083 Reference ID: 17b-083-20190722

Revision date: 22 07 2019

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