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Strategic Environment Cabinet Committee

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# Successful planning service



- 3 components:
  - visionary plan-making which sets out the policies and proposals for the area;
  - efficient and effective development management, which applies those local and national policies in the determination of planning applications; and
  - well-resourced and effective enforcement

Extract from NAPE (National Association of Planning Enforcement)  
Planning Enforcement Handbook for England

# Paragraph 59 of the NPPF



## Paragraph 59 of the National Planning Policy Framework (NPPF) July 2021 says:

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.



**Town and Country Planning Act 1990** as amended (by Localism Act 2011,

- Part V11 Enforcement (s 171A to s 196D)

Also

- Part VIII Special Controls (s 197 to s 225K)
  - Part XV Miscellaneous and General Provisions
- Planning (Listed Buildings and Conservation Areas) Act 1990**

Need to have regard to lots of other legislation inc.:

- Regulation of Investigatory Powers Act 2000
- Data Protection Act 2018

# Formal enforcement action



- Planning Enforcement Orders (s 171BA to S 171 BC)
- Planning Contravention Notice (s 171C + s 171D)
- Temporary Stop Notice (s171E to s 171H)
- Enforcement Notice (s 172 to s 182)
- Stop Notice (s 183 to s 187)
- Breach of Condition Notice (s 187A)
- Injunction (s 187 B)
- Rights of entry (s 196A to s 196C)
- Demolition unlisted building in Conservation Area (s 196D)
- Tree Replacement Notice (s 207)
- Land adversely affecting amenity of neighbourhood (s 215)
- Enforcement of control over advertisement (s 224 to s 225E)
- .....

# Penalties



- Fines (varying amounts £1,000, £2,500, £5,000 but also unlimited)
- Proceeds of Crime - confiscation orders will ordinarily match the value of receipts (not profit) arising from criminal offending, the sums involved can become substantial
- Imprisonment

# Why is effective enforcement important? (NPPG)



- 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.

# Team can investigate:



- development consisting the change of use of land/buildings without planning consent
- works to listed buildings without consent
- any activity giving rise to direct or indirect damage to protected trees or qualifying trees in conservation areas
- non-compliance with conditions attached to planning permissions
- unauthorised building works and/or engineering works
- display of unlawful advertisements
- untidy rear gardens



# Team can't investigate:



- boundary wall disputes and other land ownership issues as these are civil matters outside of the planning legislation
- legal covenants
- devaluation of property
- obstructions, parking and traffic enforcement\*
- graffiti and anti-social behaviour\*
- dangerous structures\*
- noise nuisance\*

\* = this is covered by other GBC teams (and of course Kent Police etc have own powers)

# Enforcement investigation process (simplified)



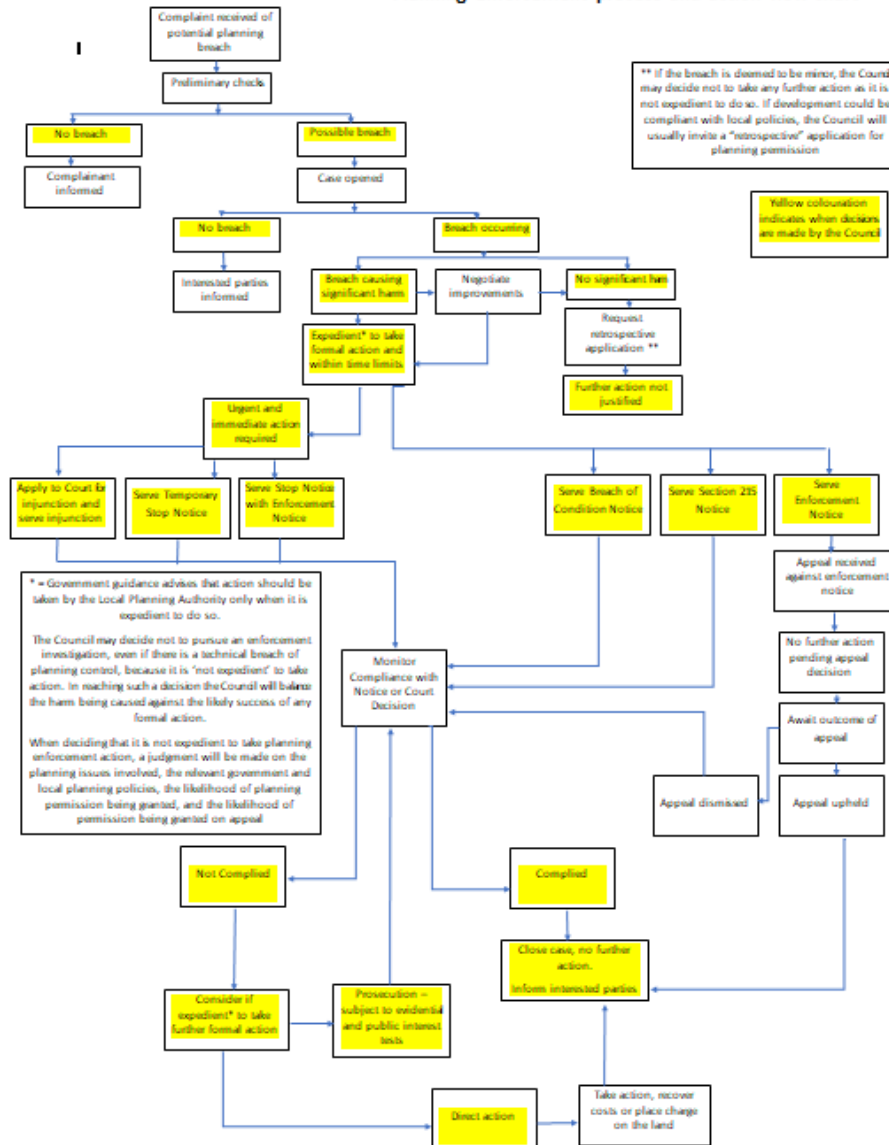
- Step 1 – Complaint received of potential planning breach
- Step 2 – Preliminary checks
- Step 3 – Investigation required (yes (case opened) or no)
- Step 4 – Investigation underway
- Step 5 – Breach identified (yes or no (case closed))
- Step 6 – Work to find appropriate outcome - depends on harm being caused by the breach
- Step 7 – Successful outcome? (yes or no (case closed))
- Step 8 – Consider expediency of formal action
- Step 9 – Formal action undertaken
- Step 10 – Successful appeal (no or yes (case closed))
- Step 11 – Monitor compliance (yes (case closed) or no (back to step 8))



# Flow chart



Planning Enforcement process and action flow chart



- An enforcement investigation can be a lengthy and complex process.
- Time taken to determine each case will vary depending on the site, the type of breach, and any actions necessary to reach the desired outcome.

# Need for effective communication



- Effective enforcement action relies on accurate information about an alleged breach of planning control.
- Complainants will only provide information if they feel safe to do so and see the value of reporting potential breaches
- Need for timely progress updates to complainant and publicising positive outcomes

The council will request, manage and share its information responsibly, and at all times in line with GDPR



# Planning Enforcement stats (1)



Measure	No. and / or %
<b>Number of contacts received from 01/04/2021</b>	111
<b>Source of report</b>	
Member	10 / 9%
Officer	16 / 14.41%
Public / Other	85 / 76.58%
<b>Outcome of investigation into reported cases</b>	
Cases closed in period, i.e. no breach established, permitted development, permission granted, etc.	49 / 44.14%
Cases pending consideration	56 / 50.45%
Cases with planning applications pending determination	6 / 5.4%
<b>Number of notices served</b>	
Enforcement	2
Breach of Conditions	0
Other	1 (TSN)
<b>% of notices appealed</b>	0
<b>% of notices</b>	
Upheld	n/a
Dismissed / Withdrawn	1 (Withdrawn)

# Planning Enforcement stats (2)



## Planning Application Statistics - District Matters

### PS1 - Enforcement Activity

Home | 
 Summary Information | 
 Permitted Development Rights (PDR) | 
 Enforcement Activity

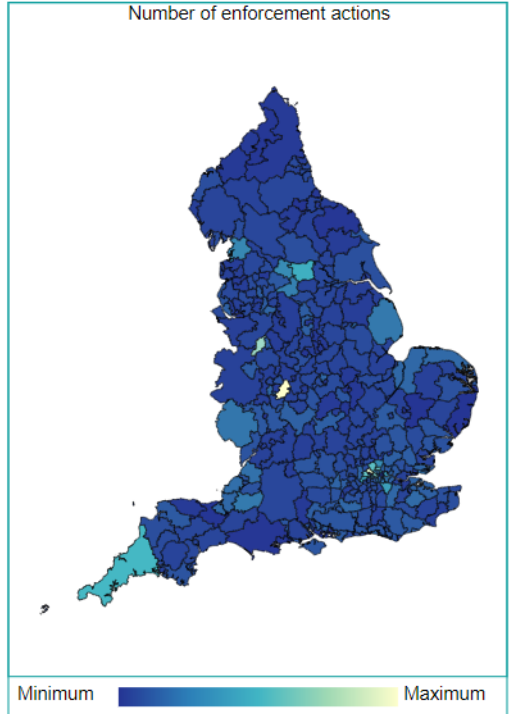
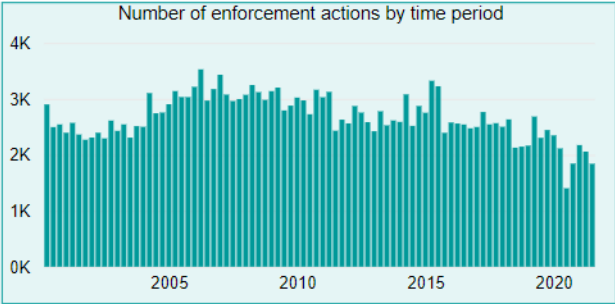
**Filters:** 
 Region: All | 
 Local planning authority: All | 
 Quarter: All | 
 Enforcement action type: All

**Notes:**

**Tips:**

- ✪ Holding 'CTRL' allows you to select multiple criteria
- ✪ Clicking on a [+] allows you to expand a section within a table.
- ✪ Clicking on ⇓ will provide an alternative breakdown.

England	Number of enforcement actions
<b>Total</b>	<b>230,144</b>
✪ Breach of conditions notices	20,304
✪ Enforcement injunctions granted	1,122
✪ Enforcement injunctions refused	122
✪ Enforcement notices	101,308
✪ Planning contravention notices	99,971
✪ Stop notices	2,995



England	Breach of conditions notices	Enforcement injunctions granted	Enforcement injunctions refused	Enforcement notices	Planning contravention notices	Stop notices	Temporary stop notices	Total
<b>Total</b>	<b>20,304</b>	<b>1,122</b>	<b>122</b>	<b>101,308</b>	<b>99,971</b>	<b>2,995</b>	<b>4,322</b>	<b>230,144</b>
✪ 2021 Q2	105	9	4	795	849	21	57	1,840
✪ 2021 Q1	107	12	1	930	919	32	56	2,057
✪ 2020 Q4	153	11	1	913	1,025	28	43	2,174
✪ 2020 Q3	186	15	0	712	844	27	59	1,843
✪ 2020 Q2	122	11	7	469	733	18	42	1,402
✪ 2020 Q1	186	9	0	1,011	839	19	50	2,114
✪ 2019 Q4	173	9	0	987	1,107	27	44	2,347
✪ 2019 Q3	199	7	10	1,043	1,108	28	47	2,442
✪ 2019 Q2	196	11	1	892	1,109	30	64	2,303
✪ 2019 Q1	173	15	0	1,067	1,368	18	42	2,683
✪ 2018 Q4	185	9	1	990	899	33	47	2,164

# Planning Enforcement stats (3)



## Planning Application Statistics - District Matters

### PS1 - Enforcement Activity

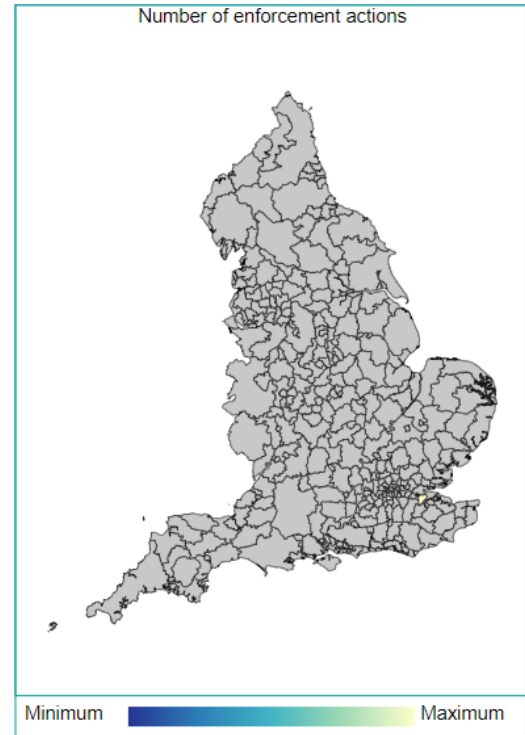
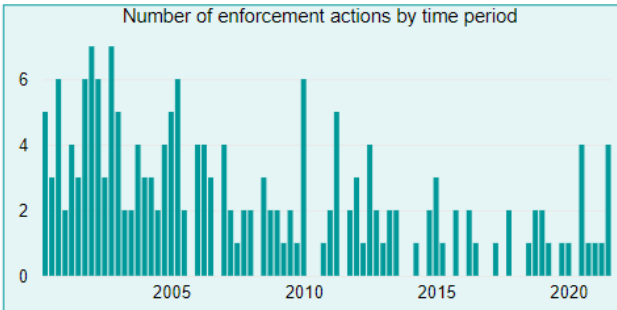
[Home](#) | 
 [Summary Information](#) | 
 [Permitted Development Rights \(PDR\)](#) | 
 [Enforcement Activity](#)

**Filters:** 
 Region:  | 
 Local planning authority:  | 
 Quarter:  | 
 Enforcement action type:

**Notes:**

**Tips:**  
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 ☞ Clicking on a [+] allows you to expand a section within a table.  
 ☞ Clicking on ↓ will provide an alternative breakdown.

England	Number of enforcement actions
<b>Total</b>	<b>188</b>
Breach of conditions notices	11
Enforcement injunctions granted	13
Enforcement injunctions refused	0
Enforcement notices	115
Planning contravention notices	40
Stop notices	2



Number of enforcement actions, by time period, Region and Local Planning Authority

England	Breach of conditions notices	Enforcement injunctions granted	Enforcement injunctions refused	Enforcement notices	Planning contravention notices	Stop notices	Temporary stop notices	Total
<b>Total</b>	<b>11</b>	<b>13</b>	<b>0</b>	<b>115</b>	<b>40</b>	<b>2</b>	<b>7</b>	<b>188</b>
2021 Q2	0	1	0	1	0	0	2	4
2021 Q1	0	0	0	1	0	0	0	1
2020 Q4	0	0	0	1	0	0	0	1
2020 Q3	0	1	0	0	0	0	0	1
2020 Q2	0	2	0	1	0	0	1	4
2020 Q1	0	0	0	0	0	0	0	0
2019 Q4	0	0	0	1	0	0	0	1
2019 Q3	0	0	0	1	0	0	0	1
2019 Q2	0	0	0	0	0	0	0	0
2019 Q1	0	0	0	1	0	0	0	1
2018 Q4	0	0	0	2	0	0	0	2



- Development of the Local Enforcement Plan
- Member input welcomed