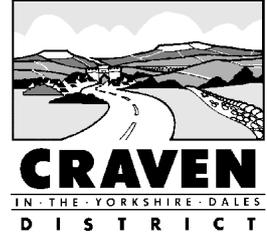


GUIDE TO PLANNING ENFORCEMENT

A short guide to the processes and how to contact us



How the Planning Enforcement Process works.

Unauthorised development

Planning Legislation is used to control 'Development' within the District. Where someone wants to undertake building work, or to change the use of a building or land, this is likely to be considered as an act of 'Development'. Not all development requires planning permission and more detailed advice on the need for planning permission can be obtained from the Council's website or on the Planning Portals web site at www.planningportal.gov.uk

'Unauthorised Development' occurs when development is undertaken without the necessary planning permission, or not in accordance with the conditions of a planning permission. The Council is able to investigate alleged cases of unauthorised development and to take enforcement action where appropriate.

When should action be taken?

It is important to be aware that the failure to apply for planning permission is not a reason to take formal enforcement action. Central Government Guidance recommends that formal enforcement action should only be taken if unauthorised development is unacceptable on planning grounds. A decision has to be taken on each case as to whether it is 'expedient' to take action. Key considerations are the planning harm that is being caused by the unauthorised development and whether action is in the public interest.

What action can be taken?

Before taking formal enforcement action Central Government Guidance generally encourages Council's to seek to resolve breaches of planning control through negotiation and persuasion. Should this be unsuccessful, or should the breach of planning control be very serious, there are a variety of formal tools that are available to deal with a breach of planning control.

Formal enforcement action often involves 'serving notice' on a developer who is in breach of planning legislation. Most breaches of Planning Control are not a criminal offence. An offence only occurs once a notice has been served and the recipient fails to comply with its requirements. A summary of the main notices used are provided in Table 1

Table 1

Summary of ‘Notices’ that can be served by Planning Enforcement
<p><u>Planning Contravention Notice.</u> Used where there appears to be a breach of planning control and the Council wishes to find out more information. The recipient has 21 days to provide the information requested. Failure to comply with the notice or to knowingly or recklessly give false or misleading information in response to it is a criminal offence.</p>
<p><u>Enforcement Notice.</u> Served to remedy a breach of planning control by requiring an unauthorised use to stop or building works removed. The notice states the action the Council requires the developer to take to correct the situation and provides a reasonable time period for compliance. Failure to comply is a criminal offence and may lead to prosecution. The recipient may appeal an enforcement notice before it takes effect and if an appeal is submitted the requirements of the enforcement notice do not have to be met whilst the appeal is considered. The appeal is made to the Planning Inspectorate who makes the decision on whether the enforcement notice should be upheld.</p>
<p><u>Breach of Condition Notice.</u> This notice may be used where there is a failure to comply with one or more conditions imposed on a grant of planning permission. There is no right of appeal. Failure to comply with this notice is a criminal offence and may lead to prosecution.</p>
<p><u>Stop Notice.</u> A stop notice has to be served in conjunction with an enforcement notice. It is used where unauthorised development may cause long term and severe damage to the local area and must be dealt with straight away. They are used rarely and in extreme circumstances. Improper use of a stop notice can result in the Council incurring significant claims for compensation.</p>
<p><u>Temporary Stop Notice.</u> Can be issued without the need for an Enforcement Notice, takes effect immediately, but is only in force for 28 days. Used in similar circumstances to a stop notice and the Council can incur claims for compensation due to improper use.</p>
<p><u>Section 215 Notice.</u> Sometimes referred to as ‘Untidy land and Buildings Notice’ or a ‘Wasteland Notice’. Can be used in cases where the condition of land and buildings has a negative impact on the local area. The notice is served on the occupier or owner of the land requiring it to be improved to an appropriate standard. There is a right of appeal against the notice to the courts. Failure to comply with its requirements is an offence and may lead to prosecution.</p>

Other enforcement powers / actions comprise:

Prosecution

Where a Notice has not been complied with the Council may prosecute through the courts. In some instances operations undertaken without the appropriate consents are a criminal offence for which there is no need for the Council to first serve a Notice. It is a criminal offence to:

- Carrying out unauthorised alterations to a listed building (Important. A listed building is protected both externally and internally).
- Carrying out unauthorised works to a tree protected by a Tree Preservation Order, or a tree in a Conservation Area.
- Display certain types of Advertisements without the appropriate consent.

Direct Action

Exceptionally should the terms of an enforcement notice not be complied with the Council can enter a site to carry out the works required by an enforcement notice itself and the costs incurred can be recovered from the owner.

Entry onto land

The Council's Enforcement Officers have powers to enter land and buildings to investigate breaches of Planning Control. It is a criminal offence to wilfully obstruct an authorised person using this right of entry. For buildings used as dwelling houses 24hrs notice of intended entry has to be given to the occupier (this does not apply to outbuildings or gardens).

Immunity from Enforcement Action

Enforcement action can not be taken against unauthorised development if:

- an unauthorised building or other operational development (i.e. some kind of physical development) has been substantially completed for more than 4 years.
- an unauthorised change of use of a building to a dwelling house has taken place for more than 4 years.
- an unauthorised change of use of a building or land has taken place for at least 10 years.
- the conditions of a planning permission have been breached for at least 10 years.

Matters that can not be controlled by the Planning Enforcement process

A variety of complaints are received that are beyond our powers. Common examples are provided below:

- Neighbour disputes
- Land ownership / boundary disputes
- Parking or activities carried out in the highway.

Contacting the Planning Enforcement team

Reporting a suspected Breach of Planning Control

A form is available to report a suspected breach of planning control. It can be downloaded from the Council's website. The form should be completed and subsequently posted or emailed to the Planning Enforcement team. The form asks all the initial basic questions that the team needs to investigate a complaint. If this form is not used suspected breaches of planning control will still be investigated, although the process may be hindered if the team does not have all the information it requires.

Confidentiality

Details of complainants will be treated as confidential. However it is possible that we may ask you to provide evidence at an appeal or in court to help support the Council's case. If you are not happy with this your details will continue to be treated as confidential, but it is possible that the absence of your evidence will prevent formal action being taken.

Anonymous complaints

Where they relate to matters within our control these reports will still be investigated, although in a more informal manner. It will of course not be possible to inform you of progress.

How the Council investigates alleged breaches of planning control.

Initial actions when a complaint is received

Once a complaint has been received an acknowledgement will be posted or emailed within 10 working days. Where no postal or email address is given this can not be undertaken.

Providing the complaint relates to a potential breach of planning control we will aim to carry out a site visit within 10 working days. An immediate or next day response (same day where feasible) will be taken where the complaint relates to unauthorised works to listed buildings, unauthorised works to protected trees and trees in conservation areas, removal of landscape features required to be retained by condition, development causing harm to Sites of Special Scientific Interest, or uses that are generating significant noise and disturbance.

Final decision on whether to take Enforcement Action

Within 8 weeks of the complaint first being made the Council will aim to resolve an enforcement complaint. The decision will need to take account of the following issues:

- Whether the suspected breach of planning control actually needs planning permission (or other similar consent) from the Council?
- Whether planning permission already has been given for the development, and if so whether work seems to be proceeding in accordance with the approved plans and conditions?
- If planning permission (or other similar consent) is required and has not already been given does the development cause any planning problems? i.e. are the unauthorised works sufficiently serious to justify formal enforcement action being taken?
- If planning permission (or other similar consent) is required and has not already been given when was the work undertaken and is it now immune from enforcement action?

Once a decision has been reached the case officer will contact the complainant to advise on the outcome. The developer or site owner will also be contacted to advise of the outcome (except in a case where the developer / site owner is believed to be unaware that a complaint has been made and the investigations have revealed there has been no breach of planning control). Please be aware that in some cases 8 weeks is insufficient time to resolve a complaint, particularly if the case is complex or if formal enforcement action is being undertaken (or seriously considered).

Keeping you informed of progress on Enforcement Investigations

The team will aim to keep those involved up to date and use whatever means of communication seems appropriate. However, should at any time you require an update or wish to discuss an investigation with the Planning Enforcement team please contact us. If you visit the Council Offices to discuss a current investigation please ensure you have an appointment to do so. Without an appointment the case officer responsible for progressing the investigation may not be available to help.

Progress on each enforcement case will be different. Some may be relatively easy to resolve, whilst others can be extremely lengthy and use considerable resources. Some matters will also be more urgent than others and will have to be given a higher priority. The team will usually seek to first negotiate with the developer to remedy any unacceptable planning harm that has been caused, but where this is not successful formal enforcement action may have to be used.

Complaints about the Enforcement Service

We aim to work fairly and impartially when investigating and resolving planning enforcement matters. Should you be unhappy with the way a matter has been investigated, please first try to resolve the matter by speaking to or writing to the Planning Enforcement team.

In the event that you are still not satisfied with the response you should write to the Head of Planning Services and Building Control at the address given for Craven District Council at the end of this document. Further information is available in the leaflet 'Complaints Procedure – A Guide' which is available through the Council's website.

Contact Details for the Planning Enforcement Team

Postal Address

Planning Enforcement, Craven District Council, 1 Belle Vue Square,
Broughton Road, Skipton, North Yorkshire, BD23 1FJ.

Email

Planningenforcement@cravencd.gov.uk

Telephone

01756 706447

01756 706299

01756 706265

Please phone the Council on 01756 700600 for other enquiries that do not relate to Planning Enforcement

Website

www.cravencd.gov.uk

Other useful Contacts

The Planning Inspectorate, Registry/Scanning, Room 3/05 Kite Wing,
Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN

www.planning-inspectorate.gov.uk

Planning Portal Web Site Address

www.planningportal.gov.uk