



Planning Enforcement Plan

February 2019

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1.0 INTRODUCTION

Gloucestershire is an historic ‘shire’ County covering an area of over 1,000 square miles and is home to more than 600,000 people. As well as having a strong rural character, the county is also known for its distinctive heritage environment and a dynamic, growing economy. The county requires ever improving infrastructure to uphold and improve the quality of life of its growing population, while protecting the environmental assets of those living, working and visiting the area.

From a County Council perspective, key interests are focused on resources and public infrastructure matters – such as the working of minerals; the disposal and future use of waste; maintenance of the local road network; and the upkeep and improvement of other local public sector facilities and assets. Any conflict this might bring to local amenity is minimised through appropriately siting development and controlling operations; this is regulated through the planning system.

Enforcing breaches of planning control is an important and necessary part of the planning system, as set out in the Government’s National Planning Policy Framework (2018), by Paragraph 58:

“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.”

The Government has published further advice on planning enforcement within its [National Planning Policy Guidance](#), against which provisions this Plan is based.

The Council recognises the importance of upholding planning policy, planning decisions it has made, as well as addressing other breaches of planning regulations, as a means to safeguarding the County's built, natural and heritage environment, and protecting the quality of life of its residents.

The purpose of this Plan is to explain how the Council does this, through providing an easily referenceable document setting out the areas of work covered by the County Planning Enforcement team, its approach to enforcement, the powers available to it, and the level of service that residents and other parties should expect to receive. A simple flowchart is provided in [Appendix 5](#) to provide a visual explanation.

The Council aims to provide a consistent and comprehensive approach to planning enforcement based on legislative requirements, government guidance, legal judgements and good practice, which through their collective interpretation shape how decisions are made.

Definitions of some of the technical planning terms used in this document are provided in the following [glossary](#).

This Enforcement Plan comes into operation on 1st February 2019 and supersedes and replaces all earlier Planning Enforcement Plans and documents.

2.0 BREACHES OF PLANNING CONTROL

Development carried out without planning permission is often referred to as a breach of planning control, and is defined in the Town and Country Planning Act 1990 as *'the carrying out of a development without the required planning permission, or failure to comply with any condition or limitation subject to which planning permission has been granted'*.

Development is defined in the Town and Country Planning Act 1990 as *"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"*

Planning functions in Gloucestershire are split between the County Council and 6 District councils. The majority of planning functions are the responsibility of the District councils, with the County dealing with the following broad areas:

- Minerals (as the Mineral Planning Authority – MPA)
- Waste (as the Waste Planning Authority – WPA)
- Regulation 3 Development – planning applications determined by the County Council where the land is owned or operated by the County Council itself, and where the Council intends to develop the land themselves or jointly with another party.
- Monitoring of County planning permissions, including investigation and enforcement of planning breaches relating to the above areas. Where the Council receives complaints in relation to Regulation 3 development, it will treat any investigation in the same way as it would for any other landowner, occupier or developer.

Determining responsibilities can also depend on whether there are mixed uses on site, and the purpose for which the operations are proposed, or have taken place. A separate ‘County Matters’ document outlining these responsibilities has been produced and can be viewed at the following: [\(document under development – link to be included once done\)](#)

It is important to highlight that not all works or operations require planning permission, and may otherwise be lawful, including for the following reasons:

- They are not considered to be ‘Development’ - as defined by s55 of the Town and Country Planning Act 1990 (as amended)
- Some works are considered ‘de minimus’ where they are of insignificant size or scale. For example, a building built 2cm above what was permitted, where it has no detrimental impact on amenity.
- Some works and uses are ‘Permitted Development’, not requiring planning permission, as defined by the Town and Country Planning (General Permitted

Development) Order 2015 (as amended). For example, some agricultural works, including excavation or deposit of materials on the land, do not require planning permission.

- Some changes of use are not considered ‘material’, having little or no significant impact on amenity.
- Some breaches are deemed to be lawful if no action is taken after a specified passage of time, being 4 years for substantial completion of building works, or 10 years for other breaches. However, if there has been a deliberate attempt to conceal a breach of planning control, the Council may still be able to take enforcement action beyond the specified period by obtaining an order from the Magistrates Court.

The above examples depend on a large number of factors including type of operation, size, height and uses, and the rules often vary according to the different location and individual circumstances.

Development is lawful where planning permission has been given, but only where the works or uses have been undertaken in accordance with that permission, including all conditions attached to that consent. Failure to comply with a condition may render the whole permission invalid.

Should you wish to have a legal determination as whether any development, use or operations, actual or proposed, are lawful then you can apply to the Council for a [Certificate of Lawfulness](#).

3.0 THE COUNCIL’S MONITORING AND ENFORCEMENT FUNCTION

This service is provided within the Council’s Planning and Development Management Services team, and consists of 1FTE Senior Planning Officer (Enforcement) and 1FTE Senior Planning Officer (Monitoring and Compliance).

The Monitoring and Compliance Officer will actively monitor all approved mineral (extraction and aftercare) and selected waste sites, to ensure conditions are

being complied with. The way in which this is done is set out in the Council's Minerals and Waste Monitoring and Review document - ([document under development – link to be included once done](#))

Many permissions are not routinely monitored and most enforcement investigations are reactive, the result of complaints made to the Council, or referrals to the Enforcement Officer from other officers and public agencies. The Monitoring and Compliance Officer will assist the Enforcement Officer in monitoring sites that are the subject of a planning investigation, and leading on those cases where the Enforcement Officer has a potential conflict of interest.

Roles and responsibilities for undertaking enforcement, including prosecutions, and who can make these decisions, are set out in the Council's Constitution and [Scheme of Delegation](#).

The Planning Enforcement team works with a number of other officers within the Council or other organisations, who will provide advice on specific technical areas such as environmental health, flood risk, waste control and ecology.

The Council is committed to working closely, and maintaining good relationships, with the District Planning Enforcement teams and any other public agency involved with the receipt, investigation and resolution of breaches of planning control.

4.0 REPORTING A SUSPECTED BREACH OF PLANNING

It is impossible for the Council to identify all possible breaches of planning control therefore the general public's vigilance in identifying potential breaches of planning control in their communities is welcomed and valued.

Enquiries can be made by completing [our on-line form](#).

We will also accept written enquiries in other formats such as email, as long as they are not anonymous or vexatious. You should provide as much as possible of the following information, to enable us to better understand your enquiry:

- A clear description of the alleged breach
- Why you think this is a breach of planning
- A description of the 'harm' being caused e.g. noise, traffic, smells.
- The date the activity started, is it happening now, is it getting worse?
- A specific site address (if it is a field, describe the surrounding area to help identify the exact site).
- The name and contact details of the site owner/occupier/builder/agent, where known
- Your name and contact details.
- Any other information you think would be helpful

Where an allegation involves activities on land, you should not undertake surveillance on the occupier, but might record and update the Council on any continuing breaches as you notice them.

The Council will seek to respond to you as quickly and fully as possible, including making an assessment as to whether the matter is a planning matter, and if so whether it falls to the County or District Council (or both) to determine. The Council will have regard to the most effective and timely powers available to investigate and where necessary pursue further actions to address the concerns raised. In some cases this will result in matters being referred to other departments and organisations, either wholly or as part of a joint approach. This

initial assessment will best ensure that the issue is dealt with by the right organisation under the right powers, and help avoid wasted time.

5.0 PLANNING INVESTIGATION

In many cases an investigation will be necessary, undertaken by the Planning Enforcement Officer, in line with the Customer Service Standards identified in [Appendix 2](#).

It is not possible to investigate every enquiry with equal priority and intensity. The Council's limited resources are directed to allegations that could potentially cause the greatest harm and/or need immediate attention, although the Council will endeavour to investigate, resolve or otherwise conclude every credible allegation it receives, and as soon as it possibly can. Accordingly, the Council assigns relative priority to all enquiries, as set out in [Appendix 1](#) of this Enforcement Plan.

Before considering what course of action it might take, if any, the Council must determine the facts. This involves establishing whether or not a breach of planning control has taken place, the nature of any breach established, the degree to which it is happening, and its impact.

Investigation takes place through a number of methods which include researching the planning history, undertaking a visit to the land and property, discussion with interested parties including those who are the subject of the investigation, ongoing monitoring of the land and property, and where necessary through legal requests for information, as outlined in [Appendix 3](#).

Planning Enforcement officers have a legal right of entry onto land, and visits will normally be undertaken without prior notice, and sometimes without the owner or occupier(s) being present; wilful obstruction of an officer in the course of their duties will be considered a criminal offence. The Council is committed to ensuring the safety of its officers, and will respond to any intimidation, abuse or assaults on its staff with appropriate legal action.

Where existing investigations require monitoring outside of normal working hours (e.g. breach of condition relating to weekend, evening or early morning operations), officers will endeavour to work flexible hours as appropriate.

Each case will be considered on its own merits, and required outcomes or actions may differ in any two cases and locations, even if it appears that the same or a very similar breach has occurred.

Once an assessment has been made, the Council will work with those responsible for the breach to identify the appropriate course of action, including any options available to remedy the situation, where these are available. The Council's required actions must be reasonable, and proportionate to the breach established.

6.0 THE APPROPRIATE COURSE OF ACTION

Where works or activities are lawful in planning terms and do not need planning permission (see section 2), or following investigation the allegations are unproven, then the matter will be concluded with no further action.

Where a breach of planning control has been identified, the Council may decide not to require action be taken to remedy the whole of a breach of planning control. This is known as "under enforcement". The matter will only be deemed concluded once any works or changes to activity agreed as part of negotiations with the Council have been carried out.

Any unauthorised works undertaken are at risk, and may be subject to demolition or alteration, including those continuing after those responsible have been notified of the breach.

Sometimes a breach of planning may be identified, but it may not be in the public interest for the Council to take further action. This might be for a number of reasons including where the breach is minor and causing little or no harm, or where the works would have received planning permission had an application

been submitted. This is called 'expediency'; a further explanation can be found [here](#).

In making this judgement the Council will firstly make the occupier and landowner aware of the planning breach, and give them the opportunity to resolve the matter, as otherwise it will be recorded as a 'Contravention' that may be revealed on a later land search, including when the property is being sold.

Unless an Enforcement Notice has been issued, relating to the same breach, those responsible have the right to apply retrospectively for planning permission. The fact that development has already taken place does not mean that planning permission is more likely to be given, although its impacts might be more easily judged. The time taken to prepare and submit an application should not delay any immediate actions required by the Council. Where retrospective permission has been given the matter will not be concluded, and could still be subject to further action, until such time as any conditions attached to the permission have been fully complied with. It is the responsibility of the applicant to ensure all other requisite consents are in place (e.g. building regulations approval, environmental permits).

Where a retrospective planning application is refused, and any subsequent appeal made is refused, then the applicant will be expected to comply with the Council's requirements for remedying the breach of planning control.

If the matter cannot be resolved to the Council's satisfaction, or there is a likelihood of further breaches of control, the Council has the powers to take formal enforcement action – as identified in Appendices 3 and 4. The Council's aim is to remedy any breach of planning control, rather than simply be punitive; however in some circumstances this will be necessary as a means to an end.

The cost to the public purse in pursuing enforcement action can be costly, so the Council will always apply for costs at any prosecution, including where an appellant (to an Enforcement Notice) is deemed to be acting unreasonably. Where a breach of planning regulation results in significant financial gain for

those responsible, the Council will also consider (alongside prosecution) applying for a Confiscation Order under powers given through the Proceeds of Crime Act.

7.0 INFORMATION MANAGEMENT AND SHARING

The Council will request, manage and use its information responsibly, in line with the General Data Protection Regulations, Data Protection Act and other relevant legislation and requirements.

In doing so the Council seeks to ensure the transparency of the planning enforcement service by sharing information on its work through the methods identified below.

All planning investigations will be recorded by the Council, and basic details available for viewing on the Council's [Public Access system](#).

Copies of all Enforcement, Breach of Condition, and Stop Notices, as well as Enforcement Orders, are sent to the District Council in which the breach of planning falls, where they should be made available for inspection and details included within their Planning Enforcement Register.

A Monitoring Report will be presented to each County Council Planning Committee, identifying those matters where formal enforcement action has been taken, with an update on progress, as well as outlining general performance and raising any other issues of interest. Officers may also from time to time present reports to committee seeking guidance or resolution on particular matters where member direction is required. These reports can be found within the Planning Committee agenda and papers [here](#).

The Council has its own planning [enforcement pages](#) on the Gloucestershire County Council website, providing information to the general public on the role and services provided by the team, including a copy of the latest version of this document.

The Council will work with appropriate media to publicise its work and positive outcomes, including successful prosecutions and other actions.

8.0 CONCLUSION

This Plan sets out the standards that the Council aspires to in responding to reports of breaches of planning. The 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. It also relies in some cases on professional advice and support from other colleagues, including outside of the Council. Decisions are made in the context of regularly changing legislation, guidance, and case law. An enforcement investigation can potentially be a lengthy and complex process. However, the Council is committed to reaching a conclusion/outcome as soon as reasonably possible.

The Plan will be reviewed periodically to ensure that it is 'fit for purpose' in the light of changing legislation, regulations, guidance, and good practice, as well as the operational characteristics of the County Council and any other circumstances that may affect its delivery.

The Council welcomes feedback on our performance, and an opportunity to comment is available by contacting:

planning.enforcement@gloucestershire.gov.uk

The Council is committed to providing an effective and efficient planning enforcement service. However, should you not be satisfied with the handling of your enquiry, in the first instance please contact the Council's Planning Development Manager – planningdc@gloucestershire.gov.uk. If you remain dissatisfied, there is a formal complaints procedure which can be found on the council's [website](#).

APPENDIX 1 – Priorities for Action

PRIORITY A - Development causing, or likely to cause, irreparable harm or damage. Investigation to take place as soon as possible, and within 1 working day. This will include:

- Development causing or likely to cause serious harm to the public, e.g. involving hazardous substances.
- Breaches taking place with a Site of Special Scientific Interest (SSSI)
- Where the breach is causing or has potential to cause serious harm to (the habitat of) a protected species, including trees covered by a Tree Preservation Order or within a Conservation Area.
- Works which are likely to threaten the built or natural heritage, including sites of (likely) archaeological importance, or affecting listed buildings or their setting, and within Conservation Areas.

PRIORITY B - Unless prompt action is taken, there is a material risk of further harm being caused which could be reduced or prevented by early intervention. Investigation to commence within 5 working days. This will include:

- Where the breach is causing serious harm to amenity in the locality, including failure to comply with planning conditions that are integral to the acceptability of the scheme and permission given
- Any breach within an Area of Outstanding Natural Beauty (AONB), Green Belt, or regionally important geological or geomorphological site.
- Development which would be immune from enforcement within six months.
- Unauthorised works under way but not substantially complete, where an early intervention could address the matter before significant extra cost and reversal are incurred or required.

PRIORITY C – All other complaints not falling in any of the above categories. Investigation to commence within 10 working days.

APPENDIX 2 – Customer Service Standards

These standards apply to both those making a complaint, and those the subject of a complaint or otherwise involved as part of any investigation into an alleged planning breach, and should be read in conjunction with sections 4 and 5 of this Plan.

- We will treat all people equally and in a fair and courteous manner, providing information and advice as appropriate, and responding to any particular needs where possible e.g. translation.
- We will consider all credible allegations of breaches of planning control, and acknowledge receipt within 5 working days. Your details will be kept confidential and not released to anyone else without your permission.
- We will make an initial assessment of your allegation according to the timescales set out in [Appendix 1](#), which in all cases should be no more than 10 working days, but often sooner. We will then notify you of our findings and intended course of action.
- We will update you on the progress of any investigation, on request.
- We recognise the anxiety that is caused by finding out someone has made an enquiry about alleged development or activity on your land or property. Accordingly we will treat you fairly, not pre-judge any allegation made against you, and give you the opportunity to respond and explain.
- We will advise you as soon as possible whether or not we consider a breach of planning control has taken place, and if so, what the breach is, and what our requirements and your options are.
- Unless the matter requires immediate action, we will give you reasonable time and opportunity for the matter to be resolved, including negotiation to seek an outcome suitable for all parties. Should you not respond, decide not to work with us, provide us with misleading information, fail to co-operate with the Council's requirements, or unreasonably and unnecessarily delay discussions or any agreed or requisite actions then we will consider the use of formal powers.
- If you dispute that a breach has or is taking place, you have the right to apply for a Lawful Development Certificate to determine the matter, but this should not delay any immediate or urgent actions required.
- You have the right to make a retrospective planning application to seek permission for the unauthorised works or activity, although there is no guarantee that planning permission would be given, and even where it is conditions will normally be attached, the requirements of which would have to be met.
- Should we decide to undertake formal enforcement actions (as set out in Appendices 3 and 4 of this Plan) we will advise you of any rights of appeal that are in place.

- We will inform all interested parties of the outcome of any investigation, with reasons, within 5 days of the outcome being decided.

APPENDIX 3 – Formal Powers

Right to Enter Land

All planning officers, or other persons duly authorised in writing by the County Council, may at any reasonable hour enter any land to ascertain whether there has been a breach of planning control (s196A of the Town and Country Planning Act, as amended). An owner, occupier or anyone with an interest in the land does not have to be present for the Enforcement Officer to enter onto land and make a site visit.

Where they are present, the Officer will normally make themselves known to the landowner/occupier when they enter the site, and where requested should be able to display a warrant card identifying their right of access. Any person that wilfully obstructs an authorised person in carrying out these duties will be considered to be committing an offence, punishable on summary conviction to a fine not exceeding level 3 (currently £1,000) on the standard scale.

Requisition for Information

Where the Council considers it has sufficient information regarding activities on land, but requires further details on ownership, a Requisition for Information may be issued (s330 of the Town and Country Planning Act, as amended).

There is a legal requirement to respond to a request made under s330 of the Town and Country Planning Act within 21 days, unless a longer period of time is specified in the Requisition. Non-compliance with completing the requirements of a s330 Requisition is an offence punishable on summary conviction to a fine not exceeding level 3 (currently £1,000) on the standard scale. Wilfully providing false or misleading information in response to a Requisition is an offence punishable on summary conviction to a fine not exceeding level 5 (currently £5,000) on the standard scale, or to imprisonment for a term not exceeding 2 years, or both.

Planning Contravention Notice

A Planning Contravention Notice (PCN) may be issued in order to ask specific questions in relation to an alleged breach in planning control (s171C of the Town and Country Planning Act, as amended). This enables a decision to be made regarding whether or not formal enforcement action is necessary or should be taken, or whether further monitoring may be required.

There is a legal requirement to respond to a PCN within 21 days, unless a longer period of time is specified in the Notice. Non-compliance with completing the requirements of a PCN is an offence punishable on summary conviction to a fine not exceeding level 3 (currently £1,000) on the standard scale. Wilfully providing false or misleading information in response to a PCN, is an offence punishable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

Enforcement Notice

The Council can issue an Enforcement Notice where there has been an identified breach of planning control and where it is considered expedient to do so (s172 of the Town and Country Planning Act, as amended). The Notice should define the breach and set out steps required for compliance, with specific timescales, to remedy the breach.

An Enforcement Notice can be served in respect of unauthorised operational development, or an unauthorised material change of use of land, including those cases where certain 'permitted development' allowances have been exceeded. The Notice must be served on the owners, occupiers and all other parties with an interest in the land, including any lenders. An Enforcement Notice must come into effect not less than 28 days after its date of issue. There is a right to appeal to the Secretary of State, and such an appeal must be made before the Notice comes into effect. Where an appeal is submitted, the requirements of the Notice are held in abeyance until the appeal has been decided by the Planning Inspectorate.

Failure to comply with the requirements of an Enforcement Notice is a criminal offence which is liable on summary conviction to a fine per offence, or on conviction on indictment to an unlimited fine.

Compliance with an Enforcement Notice will not discharge it; its provisions will remain in force and will be valid should the unauthorised use or specified development re-occur. Enforcement Notices will appear on the relevant District Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

Breach of Condition Notice

The Council can issue a Breach of Condition Notice where a condition attached to an extant planning permission is not being complied with, or where a limitation or condition of 'permitted development' is being exceeded, or not met (s187A of the Town and Country Planning Act, as amended). The Breach of Condition Notice should define the breach and set out steps required for compliance, with specific timescales, to comply with the condition or limitation.

Where the condition is integral to the whole planning permission, an Enforcement Notice may instead be served requiring more drastic remedial actions than simply compliance with the condition or limitation. Failure to comply with such a condition might render the whole permission invalid.

A Breach of Condition Notice can be served only on that party responsible for causing, allowing or not rectifying the breach. The Notice must come into effect not less than 28 days after its date of issue. There is no right of appeal, although it can be challenged by way of applying to the High Court for a judicial review. Failure to comply with the requirements of a Breach of Condition Notice is a criminal offence which is liable on summary conviction to a fine not exceeding level 4 (currently £2,500) on the standard scale.

Stop Notice

The Council can issue a Stop Notice where it considers it expedient to stop an activity before the associated Enforcement Notice comes into effect (s187A of the Town and Country Planning Act, as amended). A Stop Notice cannot be issued without an Enforcement Notice. A Stop Notice would not normally come into effect until 3 days after service unless special considerations are attached indicating that it should come into effect earlier.

There is no right of appeal against a Stop Notice. An appeal against the associated Enforcement Notice will hold its requirements in abeyance, but the requirements of the Stop Notice to cease a particular activity remain effective. As a Stop Notice prevents an activity from continuing, there is a right to claim compensation against the Council if the Notice has not been served properly, or should not have been served at all.

Non-compliance with the requirements of a Stop Notice is an offence, punishable by a fine on summary conviction and, on conviction on indictment, to an unlimited fine.

Temporary Stop Notice

The Council may issue a Temporary Stop Notice (TSN) where a breach of planning control is causing serious and irreversible harm to public amenity and/or the built, natural or heritage environment, and where immediate action is required to stop this harm (s171E of the Town and Country Planning Act, as amended)

The TSN has effect immediately but ceases to have effect after 28 days, unless it has been withdrawn earlier. This allows a period of time (up to the maximum of 28 days) for the local planning authority to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue.

Unlike a Stop Notice, a TSN can be served on its own; there is no requirement for it to be served with another Notice. There is no right of appeal against a TSN, but it can be challenged by way of applying to the High Court for a judicial review. As a TSN prevents an activity from continuing, there is a right to claim compensation against the local planning authority if the Notice has not been served properly, or should not have been served at all.

There is risk of immediate prosecution for failing to comply with a TSN, for which a fine is payable on summary conviction for the first offence, and for any subsequent offence, or on conviction on indictment to an unlimited fine.

Enforcement Order

Where a Local Planning Authority believes there has been a 'concealed' breach that would otherwise be immune from enforcement action due to the passage of time, it may apply for an Enforcement Order (s171BB of the Town and Country Planning Act, as amended). The Order will set out the steps required to remedy the breach, and the timescale in which to do so.

Direct Action (Works in Default)

Where a Notice has not been complied with, and in some other cases where immediate works are required to protect further damage occurring, the Council has powers to undertake the requisite works, where the responsible part(ies) are unwilling or unable to do so (s178 of the Town and Country Planning Act, as amended)

The cost of undertaking these works, including a fee for officer and project management time, would be placed as a charge against the land until such time as fully paid. The Council would give the owner of the land an opportunity to undertake works themselves before exercising this option. Removing the breach does not preclude the Council from prosecuting those responsible, where it is appropriate to do so. Further, the Council will consider continuing proceedings even when a matter has been resolved prior to court attendance.

APPENDIX 4 – Legal Powers

Injunction

Where the Council deems it expedient to restrain any actual or anticipated breach of planning control it may apply to either the High Court or the County Court for an injunction (s187B of the Town and Country Planning Act, as amended). This sanction is immediate, and is aimed at avoiding serious breaches before any (further) harm is done, and/or addressing those breaches of control where other powers have not been effective, or where persistent breaches arise.

Failure to comply with the terms of an injunction is contempt of court. The court has the discretion to imprison anyone found to be in contempt, or to administer an unlimited fine

Prosecution

There are a number of planning offences for which the Council would consider prosecution, subject to there being sufficient evidence to prosecute and that any such prosecution meets the public interest test:

- Committing a breach of planning regulations is not usually an offence in itself; however failure to comply with any of the Notices identified in [Appendix 3](#) is. Proceedings may continue even if the Notice is latterly complied with, although this would be recognised in proceedings. The Council will apply for costs from the defendant in all successful court proceedings.
- Wilful obstruction of, or other offences against, a Council officer or appointed representative in the course of his/her duties.
- False or misleading information provided by the recipient of a s330 Notice or a Planning Contravention Notice.

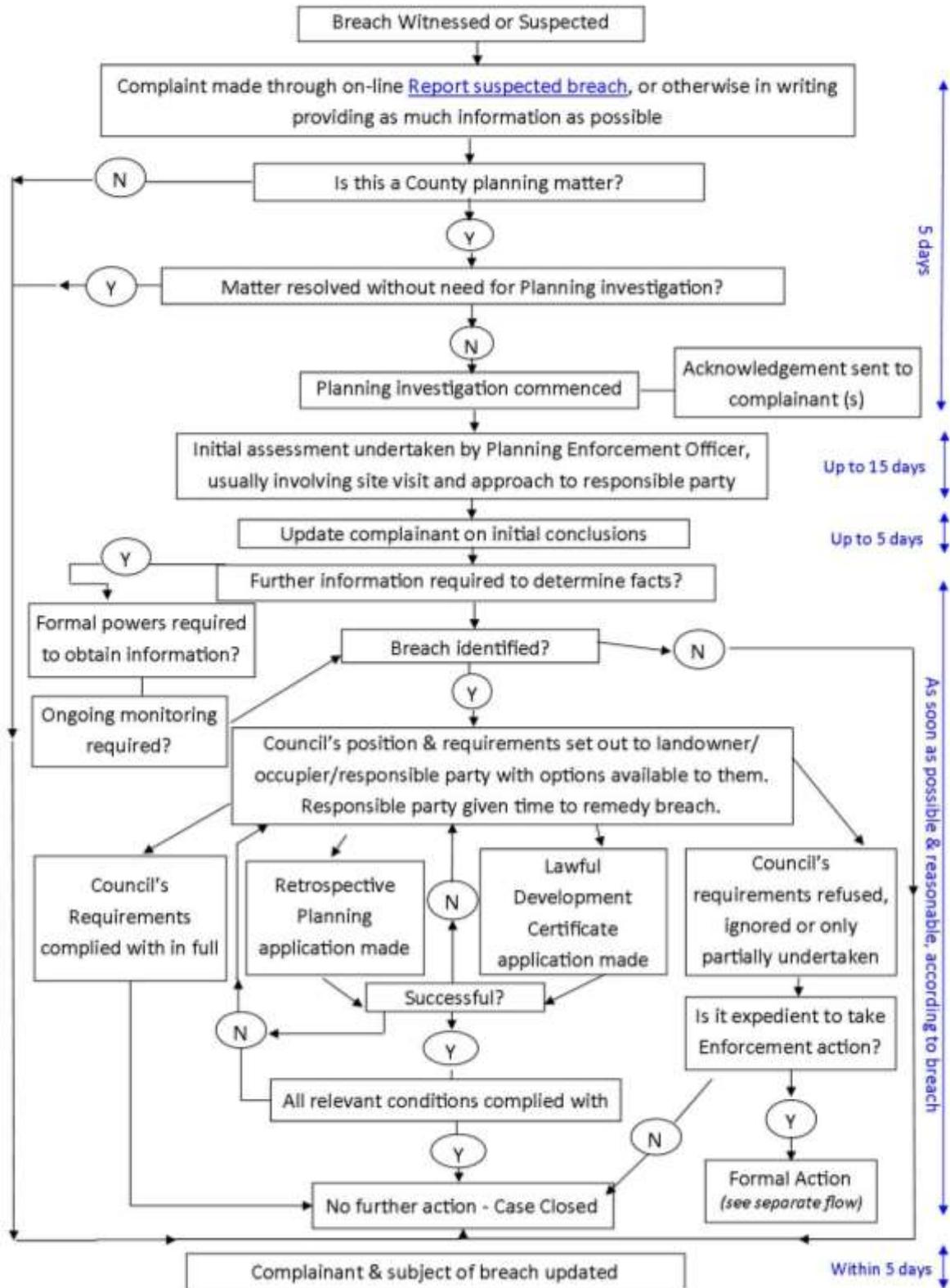
Simple Caution

For some offences, the Council may offer a 'simple caution' to the responsible party(ies), however should the caution not be accepted the Council reserves the right to prosecute. Cautions will not normally be offered to repeat offenders.

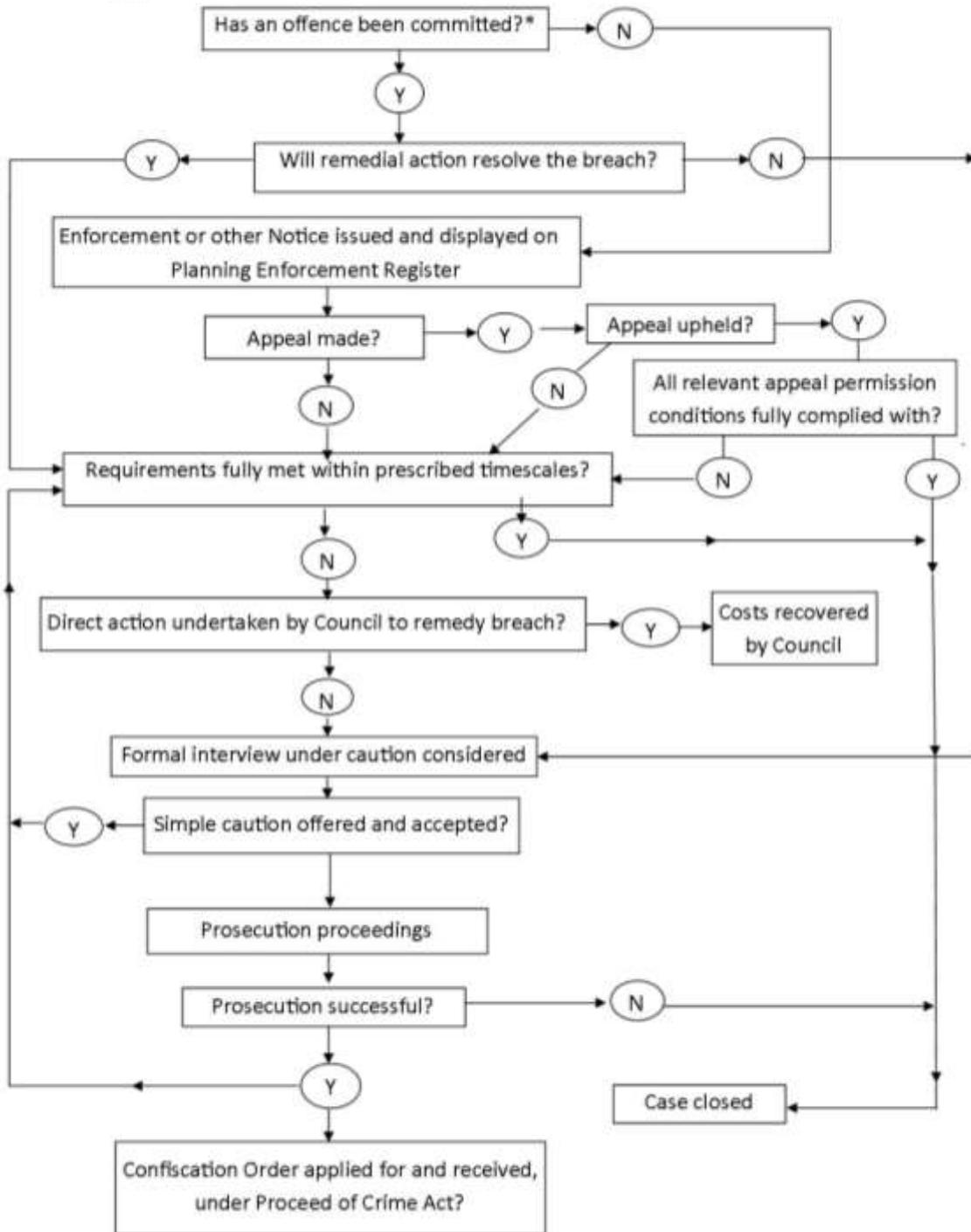
Confiscation of assets

Asset recovery should be considered in every case in which a defendant has benefitted from criminal conduct, as a result of a breach of planning regulations. Where it is appropriate to do so, the Council may apply to the Court for a Compensation Order, as part of prosecution proceedings. If granted, the Council would then work with a Financial Investigator to identify assets and use powers available to recover these, under the Proceeds of Crime Act 2002

Appendix 5 —HOW ENFORCEMENT ENQUIRIES ARE HANDLED



Appendix 6 — ENFORCEMENT - FORMAL ACTION DECIDED



* A breach of planning control is not a criminal offence, however failure to comply with an Enforcement Notice is. Some actions, eg damage to a listed building are criminal offences without need to serve a Notice—see Section Appendix 4 of the Planning Enforcement Plan