



# LOCAL ENFORCEMENT PLAN

**(Pursuant to paragraph 207 of the National Planning Policy Framework)**

**SOUTH DERBYSHIRE DISTRICT COUNCIL  
COMMUNITY & PLANNING SERVICES**

**STUART BATCHELOR  
HEAD OF SERVICE**

## **CONTENTS**

<b>1 BACKGROUND.....</b>	<b>2</b>
<b>2 KEY PRINCIPLES OF PLANNING ENFORCEMENT.....</b>	<b>2</b>
<b>3 LEGISLATION &amp; GOVERNMENT GUIDANCE .....</b>	<b>3</b>
<b>4 INVESTIGATING ALLEGED BREACHES OF PLANNING CONTROL .....</b>	<b>3</b>
<b>5 ASSESSING EXPEDIENCY .....</b>	<b>4</b>
<b>6 USE OF ENFORCEMENT POWERS .....</b>	<b>5</b>
<b>7 REPORTING BREACHES OF PLANNING CONTROL .....</b>	<b>5</b>
<b>8 ENFORCEMENT OPTIONS.....</b>	<b>6</b>
<b>9 ENFORCEMENT PRIORITIES.....</b>	<b>9</b>
<b>10 DECISION MAKING.....</b>	<b>11</b>
<b>11 STAFF SAFETY.....</b>	<b>15</b>

## **1.0 BACKGROUND**

This adopted policy sets out the general principles that form the standard operating procedures and function of the Planning Enforcement Service, within the Development Management function of South Derbyshire District Council.

In order to provide the best possible service, it is essential that the Council give clear information on what it is able to do and how the service is prioritised, given the available resources.

This document is written with due consideration to relevant Government Policy, Legislation and Guidance, to provide a clear statement of the decision-making framework that will enable the effective provision of a Planning Enforcement Service through the implementation of sound procedures and working practices.

The Council's primary objective is to achieve regulatory compliance. Where it becomes necessary to take formal action in respect of breaches of planning control, the Council ensure such action is taken, where it can be shown to be expedient and in the public interest to do so.

There is a wide range of enforcement tools available to the Council to remedy breaches of planning control, with prosecution and 'direct action' being the most serious. The Council will always choose an enforcement sanction that is commensurate with the breach of planning control to which it relates.

This policy is built around a process of escalation. In most circumstances the Council will only issue a formal notice where a breach of planning control has caused or is likely to cause material loss or harm to amenity, and where informal negotiations have been or are expected to be unsuccessful. Consideration will also be given to whether the actions of those responsible for breaches of planning control have endangered the health, safety or wellbeing of people or the environment.

## **2.0 KEY PRINCIPLES OF PLANNING ENFORCEMENT**

### **2.1 The Purpose of Planning Enforcement Action**

The planning system in England and Wales comprises three key elements:

#### **DEVELOPMENT MANAGEMENT**

#### **ENFORCEMENT**

#### **DEVELOPMENT PLAN**

All of which are intrinsically linked and in most cases the responsibility of the Council to address all three elements within the planning process.

National and local planning policy sets out the types of development that are acceptable for different parts of the area of South Derbyshire, and provides a framework that enables the Council's Development Management Team to assess and determine planning applications. This approach ensures that only acceptable development is approved in the District, and that this development shapes the District in a way that benefits residents and the local economy as a whole. Provision for enforcement is therefore essential to ensure that where development is undertaken without planning permission, action is taken to minimise or remove any harmful effects.

The Council's planning enforcement role is part of the Development Management function. The Council usually receives over 350 enforcement complaints each year, and has a statutory duty to ensure that these complaints are investigated and the appropriate action taken, which can include the taking of no action at all.

### **2.2 Scope of the Council's Planning Enforcement Function**

Planning laws are enacted to control the development and use of land and buildings in the public interest. They are not intended to protect the private interests of one person against the activities of another. The Council therefore will not intervene in private civil disputes such as breaches of restrictive covenants, boundary disputes or disputes that relate to damage to or reduction in value of land or property.

The Council's planning enforcement function is responsible for the investigation and enforcement of 'breaches of planning control'. Breaches of planning control are restricted to matters falling within the scope of 'development'.

Development is defined as:

*"Except where the context otherwise requires... 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"* – s. 55 Town and Country Planning Act 1990 (as amended).

A breach of planning control is either:

- Carrying out development without the required planning permission; or
- Failing to comply with any condition or limitation subject to which planning permission has been granted

The Council is required to operate its enforcement function within government guidelines and in accordance with Council policy and therefore must determine whether or not a breach of planning control unacceptably affects policy, amenity or the general quality of life, such that enforcement action is warranted and justifiable.

All development requires a planning permission, of which there are two types:

### **‘Deemed’ planning permission**

Some operations or changes of use of land can be carried out without having to apply to the Council for further written planning permission. This is more commonly known as ‘permitted development’. In these circumstances legislation is deemed to grant planning permission. There are many different types of permitted development, including but not limited to works within the domestic curtilage of residential properties, works by statutory undertakers, change of use of land, agricultural building operations, and minor building operations.

The legislation that defines the scope of ‘permitted development’ consists of:

- The Town and Country Planning (General Permitted Development) Order 1995 (as amended), and
- The Town and Country Planning (Use Classes Order) 1987 (as amended).

### **‘Express’ planning permission**

All development that is not granted by a deemed planning permission will require ‘express’ permission from the Council. In these circumstances such development should not be carried out prior to this permission being obtained. The Council’s Planning Committee determines applications for express planning permission, although there is a delegated agreement in place by which a large number of applications are determined at Officer level. There is a process to ascertain the requirements of calling an application to Committee, which means those applications determined by the scheme of delegation tend to be less contentious schemes. All applications are subject to public notification to residents and Parish Councils, and consultation with other public authorities and local elected District Councillors.

## **2.3 Statutory Duties of the Enforcement Function**

The Council is responsible for the investigation of all breaches of planning control that are ‘District matters’. District matters comprise all breaches of planning control, with the exception of mining and mineral extraction, and waste deposit and disposal. These are ‘County matters’ that are investigated and enforced by Derbyshire County Council. Often District and County matters will overlap, and in these circumstances should enforcement action be required the District Council will act as the lead authority.

The Council has a statutory duty to investigate alleged breaches of planning control, to determine whether a breach has taken place and also to determine whether enforcement action is necessary. The Council does not have a duty to take enforcement action. To carry out work or change the use of land or buildings without first obtaining planning permission is not a criminal offence. It is unauthorised, but not illegal and in the majority of cases the Council is likely to provide the opportunity to submit an application for

retrospective planning permission, in accordance with Section 73A of the Town and Country Planning Act 1990 (as amended). For all investigations where a breach of planning control has been identified, the Council must assess any actual and/or potential harm caused by the breach. This assessment of 'expediency' ensures that the Council fully considers the implications of each breach of planning control before determining the most appropriate course of action. Therefore, the breach of control is not in itself sufficient to merit enforcement action.

National planning policy, namely 'National Planning Policy Framework (NPPF)', states that,

*“effective enforcement is important as a means of maintaining 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.”*

South Derbyshire District Council promotes this approach. Planning enforcement should not be used as a punitive system. Where a breach of planning control is acceptable based on planning merits it should not become the subject of enforcement action. However, harmful unauthorised development should be pursued to ensure it is either made acceptable by the imposition of additional requirements or limitations by way of conditions. If it is not possible to alter development to make it acceptable then action will be considered to require the unauthorised development to cease or be removed.

Formal action will not be taken solely because development has started without the benefit of planning permission without first examining whether there are sound and valid reasons for doing so. The Council is not automatically required or committed to take action on breaches of planning control. The particular circumstances of every case must always be considered. It is not usual for formal action to be taken against a minor breach of control that causes no real harm. Enforcement action will be taken urgently where it is considered commensurate with the seriousness of the breach of planning control and expedient and in the public interest to do so (see Section 7 below).

All of the Council's decisions will have regard to the following current statutory guidance and codes of practice:

- Enforcing Planning Control: A Good Practice Guide
- The Statutory Code of Practice for Regulators
- The Code for Crown Prosecutors
- The Human Rights Act 1998.
- Circular 10/97: Enforcing Planning Control
- Enforcement Concordat: Good Practice Guide for England and Wales (1998)
- National Planning Policy Framework (NPPF)

Emerging or replacement statutory guidance and codes of practice will be given regard alongside this plan as appropriate.

## **2.4 Loss of a Planning Permission**

The Council has powers to withdraw or discontinue a planning permission only in exceptional circumstances. However, circumstances may arise where a planning permission is 'lost' due to the actions of the developer.

Most planning permissions are subject to conditions, of which some may be 'pre-commencement' requiring attention before development commences. Some pre-commencement conditions may be particularly important, where a failure to comply would result in the development as a whole being unlawfully implemented. Such conditions are referred to as 'conditions precedent' and go to the heart of the permission. Common examples are those requiring remediation of contaminated land, preservation of archaeological remains, or retention of specific features on the land subject of the planning permission. Failure to comply with a 'condition precedent' may result in significant harm, and where these works cannot be undone the planning permission is likely to have been made invalid.

The Council therefore seeks to ensure developers are aware of the consequences of failing to comply with pre-commencement conditions; as such breaches can be very costly to resolve. This is particularly relevant where the breach relates to a larger development scheme, as planning application fees and the costs incurred by a developer's contractual obligations can be significant. Furthermore should a planning permission be lost, there is no guarantee that permission would be granted if a new application were to be submitted.

## **2.5 Maladministration**

Failure to properly assess the expediency of a breach of planning control may constitute 'maladministration' by the Council. In these circumstances the Council is liable to investigation and action by the Local Government Ombudsman (although the Council would have to consider such a complaint in the first instance through its own procedure). Where such an investigation determines that maladministration has occurred, leading to injustice, the Council may be required to pay compensation to any parties affected.

## **3.0 LEGISLATION AND GOVERNMENT GUIDANCE**

### **3.1 Primary Legislation**

When investigating alleged breaches of planning control, the Council will act in accordance with the provisions of both primary legislation (Acts of Parliament) and secondary legislation (Statutory Instruments).

The primary legislation is the Town and Country Planning Act 1990 (as amended). This legislation sets out the definition of 'development', and provides the Council with the majority of its planning enforcement powers.

### **3.2 Secondary legislation**

Key secondary legislation includes:

#### **The Town and Country Planning (Use Classes) Order 1987, and all amendments**

The Use Classes Order (UCO) separates the many different uses of land into 'classes', and sets out which changes of use of land are outside the scope of development. The UCO deals only with 'primary' uses of land; any use class that is not listed or constitutes a 'mixed use' is defined as 'sui generis' and sits within its own class. The UCO defines the changes of use that cannot be 'material', and therefore only advises which changes of use are excluded from development. The UCO does not define what constitutes a material

change of use, therefore if a change of use is not excluded it must be assessed on its own merits as a matter of fact and degree.

### **The Town and Country Planning (General Permitted Development) Order 1995, (as amended)**

The General Permitted Development Order (GPDO) sets out what forms of development have the benefit of 'deemed' planning permission. All works or activities that are defined as being 'development' that are not covered by the GPDO will require express planning permission.

### **3.3 Government Guidance**

#### **National Planning Policy Framework (NPPF)**

Paragraph 207 briefly sets out the general approach to planning enforcement.

### **3.4 Government Circulars**

When enforcing breaches of planning control, the Council will have regard to the principles set out in relevant Government Circulars.

The most relevant Circulars are:

- 10/1997 (Enforcing Planning Control)
- 02/2002 (Enforcement Appeals Procedure)
- 02/2005 (Temporary Stop Notices)

The Council will also have regard to 'Enforcing Planning Control: A Good Practice Guide'.

### **3.5 Other Legislation, Guidance and Codes of Practice**

When investigating breaches of planning control the Council will also act in accordance with the following:

- Code of Practice for Regulators
- Code for Crown Prosecutors
- Human Rights Act 1998
- Equality Act 2010

### **3.6 Case Law and Legal Precedent**

The UK planning system has generated a significant amount of case law. Where it is derived from the High Court and above this sets a legal precedent that dictates how the law should be interpreted by decision makers and investigators. Legal precedent is subject to continual change as new cases are put before the Courts, and it is in the best interests of the Council to be well informed on this subject as such changes can significantly enhance or impair the actions of the Council when dealing with breaches of planning control.

## **4.0 INVESTIGATING ALLEGED BREACHES OF PLANNING CONTROL**

Upon receipt of a complaint officers will initially undertake research of the Council's planning records, to establish the planning history of the land under investigation. This research may reveal that no breach of planning control has occurred; however in most cases further investigation will be necessary.

### **4.1 Site Visits**

In all but the most straightforward cases, officers will undertake a site visit to try to establish whether a breach of planning control has taken place. The majority of site visits are made without prior arrangement, and officers are required to identify themselves as enforcement officers as soon as they enter the site.

### **4.2 Powers of Entry**

The Council's planning enforcement officers have powers of entry, for the purpose of investigating alleged breaches of planning control, under the following provisions:

- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (as amended)
- Planning (Hazardous Substances) Act 1990 (as amended)
- Planning (Hedgerow Regulations) Act 1997
- Local Government (Miscellaneous Provisions) Act 1976, 1982
- Planning (Consequential Provisions) Act 1990 (as amended)

Where site visits are made and no occupier can be found at the time of visit, officers have powers to inspect the land in their absence. Officers do not have powers to force entry into any dwelling house. Where appropriate, officers will leave a business card requesting the occupier of the land to contact the Council.

If during a site visit officers are refused entry onto land or buildings, the Council has the right to apply to the Magistrates' Court for a warrant to enter the property. This course of action will only be taken in cases where it is considered both necessary and proportionate to the alleged breach under investigation.

Whilst on site, officers may ask questions of any present occupiers, and may take measurements and where appropriate photographs. Any information gathered will be used to ascertain whether a breach of planning control has taken place. If a breach has occurred, this information will be used to assess the most appropriate course of action to resolve the matter.

### **4.3 Gathering Evidence**

Where a complaint relates to an alleged unauthorised use of land, officers will make a reasonable attempt to determine whether a breach has taken place. In most cases a 'reasonable attempt' will consist of an appropriate number of site visits at days and/or times deemed most suitable for the allegation. This approach ensures that the Council's limited resources are used efficiently. Where officers can find no evidence of a breach of planning control the investigation will be closed and no further action taken. Such cases

will not be reinvestigated unless the complainant is able to provide more substantive evidence of the alleged breach of planning control.

Officers may also make use of the 'planning contravention notice' if they have reasonable suspicion that a breach of planning control is likely to have occurred. This tool will be used in accordance with Government guidance and best practice.

#### **4.4 Research**

Officers may use a variety of other methods to determine whether or not a breach of planning control has taken place, including obtaining information from witnesses to an alleged breach, and consultation with the Council's Development Management Team.

The Council may also seek clarification from case law or obtain legal advice where the subject of an investigation is complicated or contentious.

#### **4.5 Immunity from Enforcement Action**

When investigating breaches of planning control, officers must identify whether or not a breach is immune from enforcement action.

Where a breach of planning control continues, undetected and therefore without any intervention by way of formal enforcement action it will become lawful by the passage of time. In such circumstances the breach becomes immune from enforcement action, which means the Council is unable to remove or mitigate the development.

Immunity timescales are as follows:

- Four years where the breach consists of unauthorised building, mining, engineering or other operations.
- Four years for a change of use of any building to use as a single dwelling house.
- Ten years in any other case.

#### **4.6 Planning Contravention Notices**

The Council has powers to issue planning contravention notices on owners of land where they believe a breach of planning control is likely to have occurred. The Council may ask questions regarding the alleged breach, to acquire information necessary to determine whether a breach has taken place. A planning contravention notice is a formal notice and failure to respond, or to knowingly provide false information, is a criminal offence. Failure to comply with the requirements of a planning contravention notice may not preclude the Council from taking enforcement action.

Issuing a planning contravention notice does not constitute the Council taking enforcement action. A planning contravention notice is not registered as a land charge, and is not included on the Council's Enforcement Register.

### **5.0 ASSESSING EXPEDIENCY**

An assessment of 'expediency' will be required in all cases where a breach of planning control has been identified. An 'expediency' test involves the Council assessing the planning merits of the unauthorised development and the impact of the Council's

enforcement powers, to determine whether action is required to control the unauthorised development or require its cessation/removal. The Council has a statutory duty to assess the expediency of enforcement action, and expediency is assessed following consultation with the Council's Development Control Team to ensure consistency and quality of decision-making. The assessment of expediency is based on a variety of factors, including:

### **5.1 How the Unauthorised Development Complies with Relevant National and Local Planning Policies**

For unauthorised development to be considered acceptable, it must comply with relevant national and local planning policies. Breaches of planning control are likely to require remedial action where the unauthorised development is considered to be contrary to planning policy. Common policy considerations include (this list is not exhaustive):

- Development within/outside of settlement curtilage
- New development in the countryside
- Residential amenity
- Employment sites
- Highway safety
- Landscape conservation
- Design

### **5.2 How the Unauthorised Development Affects any 'Material Considerations'**

The Council has a duty to ensure proper consideration is given to all relevant planning policies and material considerations. Officers, when assessing expediency must determine how these factors are weighted for each case, providing justification for any weighting given. If it is determined that further action is expedient, the Council then has a duty to ensure the necessary steps required to regularise the breach of planning control are taken.

### **5.3 Factors Not Taken into Account When Assessing Expediency**

All planning enforcement decisions must be made with regard to the interests of the public as a whole. It is not the role of the planning system or planning enforcement to protect the interests of one party against those of another. As such, breaches of planning control are not subject to public consultation. The following factors will not be taken into account when assessing expediency:

- Breaches of restrictive covenants
- Private disputes
- Competition between businesses
- Damage to property
- Boundary or other land disputes
- Reduction in value of land or property

Where necessary the views of various partner agencies and statutory consultees such as Derbyshire County Council, the Environment Agency, and English Heritage may be sought in order that the Council makes an informed decision. The views of other agencies will be of particular importance where their technical or specialist knowledge is required.

## **6.0 USE OF ENFORCEMENT POWERS**

The Council has a variety of enforcement options that may be utilised when resolving a breach of planning control. The Council has a statutory duty to hold and maintain an Enforcement Register, which is a public record of all formal enforcement action that is registered as a land charge. This public record is also maintained in electronic format on the Council's website.

### **6.1 No Action**

Where it is determined that there is no breach of planning control, no further action will be taken as it will clearly be unnecessary. Where following an assessment of expediency it is determined that an unauthorised development is acceptable based on its planning merits the land owner and/or occupier will be invited to submit a retrospective planning application in an attempt to regularise the matter. In the event that such an application is not forthcoming the matter will be reported to Members as not expedient or in the public interest to pursue.

### **6.2 Enforcement Action**

The Council's approach to planning enforcement is built around a process of escalation. This process applies only to breaches of planning control that have been subject to an assessment of expediency (as defined in chapter 4 above); and, where following this assessment it has been determined that enforcement action is expedient.

### **6.3 Informal Action**

In the majority of cases where it has been established that further action is expedient, the Council will seek informal resolution of the breach of planning control. Informal resolution may be by way of requesting a retrospective application in order that the development may be controlled either with or without conditions, or by requesting cessation or removal of the breach of planning control within a specified deadline. The time allowed will be reasonable and will take into account the amount of work required, the seriousness of the contravention and the implications of non-compliance. The Council will make all requests in writing, and failure to achieve informal compliance will result in consideration being given to formal action.

### **6.4 Statutory Notices**

The Council has powers to issue breach of condition notices and enforcement notices to remedy breaches of planning control. The type of notice issued will be dependant on the nature of the breach of planning control, and in most cases such action will only be taken where attempts to negotiate an informal resolution have been unsuccessful.

### **6.5 Emergency Measures**

Where a breach of planning control is causing significant harm, the Council has powers to take immediate action to compel it to stop. This action may be by way of a notice or injunction, and dependant on the circumstances of the case it may be temporary or permanent. Emergency action is only taken in very exceptional circumstances, where the risk of irretrievable harm is real and considered imminent.

In order to grant the injunction the Court needs to be satisfied that it is just and convenient as well as proportionate to do so in light of the article 8 right to a private life contained within the European Convention on Human Rights. At the hearing, the Judge will invariably weigh up the public interest of granting an injunction in terms of upholding the integrity of the planning system and abating the material harm as against the private interest of the landowner/occupier to use his land as he sees fit.

From a practical point of view, the Circuit Judge who will hear the application will usually be inexperienced in planning and environmental law. Accordingly, Judges commonly take a common-sense, broad-brush approach. If it can be demonstrated that there has been a flagrant breach of planning (rather than some technical or slight indiscretion), material harm is caused and the defendant shows no sign of rectifying the situation, the Court is likely to look sympathetically upon the application.

## **6.6 Direct Action**

Where the Council has issued a statutory notice and those responsible for the breach have failed to comply, the Council has powers to carry out the works specified in the notice. This is referred to as 'direct action'. Direct action is a useful tool that can resolve many different breaches of planning control, and is generally most effective when used to remove unauthorised building operations. The Council has powers to recover from those responsible any expenses incurred as a result of direct action, and unpaid expenses can be either pursued in the County Court or registered as a land charge payable when the land is sold.

## **6.7 Cautions**

In some instances the Council may have sufficient evidence to prosecute an individual or business for failing to comply with a notice, yet it may not be considered to be in the public interest to do so. Where this applies, the Council may 'offer' a simple caution to the offender(s). A simple caution is not a criminal conviction, rather an admission of guilt, and remains on the Council's Cautions Register for three years. If further similar offences are committed within this three-year period, the Council is permitted to bring the caution to the attention of the Court on conviction. This may result in a harsher sentence for the latter offence(s). A caution may be administered in addition to direct action.

If any individual or business refuses to accept a caution, the Council will review the case and re-consider a prosecution.

## **6.8 Prosecution**

A prosecution is more likely to ensue where the individual or organisation has:

- Deliberately or persistently ignored written warnings or formal notices
- Endangered, to a serious degree, the health, safety or well being of people or the environment

Prosecution may also be the most appropriate course of action in other circumstances, or where direct action is considered inappropriate or has proved ineffective in resolving the breach. The Council will only pursue a prosecution where there is a realistic prospect of conviction, and where it is in the interests of the wider public to do so.

## **7.0 Reporting Breaches of Planning Control**

### **7.1 How to Report Alleged Breaches of Planning Control**

The Council encourages the reporting of suspected breaches of planning control. As development can gain immunity from enforcement action over time, it is important that any suspected breaches are reported as soon as possible in order that harmful development can be removed or minimised. Those reporting a breach of planning control are asked to do so via the Council's web-site [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) providing as much information as possible in all fields. In accordance with the Data Protection Act 1998, the Council will not disclose any information relating to the identity of a complainant. Although complainant details are kept confidential, it is not beyond possibility that the alleged offender will make assumptions about the identity of the persons involved. Whilst an officer will have a brief telephone discussion about a potential breach of planning control, a complainant will be requested to confirm their concerns via the Council's web site or in writing.

### **7.2 Prioritisation of Complaints**

Taking enforcement action can be a long and involved process requiring significant staff time. The resources that can be devoted to enforcement work are limited. Consequently it is necessary to prioritise cases to ensure that vigorous action is taken against the most damaging breaches of planning control and less urgent matters are dealt with as resources become available.

Therefore planning enforcement action is prioritised as follows: -

#### **Category A – Top Priority**

Breaches of Listed Building Control where demolition is taking place.

Breaches of Conservation Area Control where irreparable damage to the character or appearance of a Conservation Area may be caused.

Breaches of Tree Preservation Orders where trees are under threat and are likely to be lost.

All reports of unauthorised development that represent a serious danger to members of the public.

#### **Category B – High Priority**

Breaches of either Listed Building or Conservation Area controls not coming into Category A above.

Breaches of the requirements of an Enforcement Notice or a Breach of Condition Notice.

Unauthorised development, which, without intervention, would otherwise be nearing immunity from enforcement action by virtue of either the 4 or 10 year immunity rules.

Unauthorised advertisements, which constitute a potential highway danger.

#### **Category C – Medium Priority**

Technical breaches of planning control, including breaches of conditions.

Unauthorised operational development or a material change of use, which is not about to become immune from enforcement action and would be likely to be acceptable if retrospective planning permission were to be applied for.  
Unauthorised advertisements not coming into Category B above.

### **Category D – Low Priority**

Disputes between neighbours or complaints about neighbour's property, involving a breach of planning control not resulting in harm to wider residential amenity.  
Property or land, the condition of which adversely affects the amenity of the surrounding neighbourhood.

#### **7.3 Anonymous Complaints**

The Council will not normally investigate anonymous complaints. However in exceptional circumstances where irreparable harm is likely to be caused to a Listed Building or a protected tree is likely to be lost the Council may act without knowing the complainant's details.

#### **7.4 Keeping People Informed**

The Council aims to keep both complainants and those in breach of planning control informed at each stage of an investigation. This will always be communicated in writing to the subject. Every attempt will be made to keep the complainant informed as a case progresses; however a complainant may contact the case officer and seek an update at anytime during the process.

#### **7.5 Complaints against the service**

The Council aims to fully investigate and assess all breaches of planning control, and to take enforcement action where it is considered expedient to do so. The Council also aims to ensure high customer service standards are maintained with all parties involved in an enforcement investigation.

Where customers are not satisfied with the way an enforcement investigation has been carried out, the Development and Building Control Manager will undertake a review of the investigation and advise the complainant what action will be taken. If this does not resolve the matter, the complaint will be investigated in accordance with the Council's Corporate Complaints Policy. Details of the Complaints Policy can be found at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)

#### **7.6 If you are the Subject of a Complaint.**

If contacted about an alleged breach of planning control where you are thought to be responsible, you are entitled to know what the allegation is and have the opportunity to explain your side of the case.

Please note that, under the Freedom of Information Act 2000, the Council is not obliged to provide details of the source of any complaint although you will be entitled to know the name of the Councillor who lodges a complaint on his/her own behalf or for someone else.

Where the complaint is found to be without substance, you will be advised appropriately and the Council's file will be closed on the matter. If there is found to be a breach of planning control, you will be advised of the details of the breach and how it can be put right.

Your co-operation will be sought to correct the breach, either by removing or modifying the unauthorised development or by ceasing the unauthorised work. A reasonable period of time will be allowed for you to do this.

In some circumstances, you may be invited to submit a retrospective planning application although no assurance can be given as to a successful outcome to any planning application. However, if refused, such applications carry a right of appeal.

We will try to minimise possible impacts on any business, which may be subject of enforcement action, but this does not necessarily mean that the enforcement action will be delayed or stopped.

Enforcement Notices will contain the precise details of the breach, the reasons for the action, the steps required to overcome the breach and the time period for compliance.

In the early stages of an investigation, you may be issued with a 'Planning Contravention Notice' that requires information concerning the development carried out and precise details of those responsible involved. This Notice is used to establish facts so that the Council can determine whether a breach of control has taken place and whether formal enforcement action is appropriate. The legal implications of not completing and returning the Notice will be explained to you.

## **Contacts**

Gaynor Richards: Senior Enforcement Officer – 01283 595750  
Alan Barrett: Planning Enforcement Officer – 01283 595987  
Tony Sylvester: Development Control Manager –01283 595743

All of the above may be contacted by e-mail by inserting their full names, separated by a dot, before "@south-derbys.gov.uk"