

THE COUNCIL'S APPROACH TO PLANNING ENFORCEMENT

1. Draft Local Enforcement Plan

- 1.1 Mole Valley District Council (MVDC) puts great value on the quality of life and the local environment that people enjoy in the District's countryside, towns and villages. In all its work on planning and development MVDC tries to drive a 'quality agenda', recognising how important development is in creating economic growth and meeting the community's needs, but also the need to control inappropriate and unauthorised development.
- 1.2 When development takes place without permission and causes significant impacts on people's lives residents of the District understandably expect that action should be taken if they are to have confidence in the planning system.
- 1.3 This Local Enforcement Plan sets out how MVDC can and will respond. We will follow Government advice that encourages Councils to try to resolve issues by negotiation, as this is very often the quickest and most effective way to resolve problems. It is also the best way to use resources - taking formal action, assuming it succeeds, can be a much longer process than people imagine and consumes a lot of staff time.
- 1.4 But where negotiation fails, or individuals deliberately or persistently ignore the rules and carry out development that seriously impacts on the wider community, then there should be no doubt that MVDC will take formal action whenever possible.
- 1.5 In a typical year over three hundred potential breaches of planning control are reported to us and each one is investigated.

2. WHAT IS AND WHAT IS NOT A BREACH OF PLANNING CONTROL?

- 2.1 A breach could involve such matters as the unauthorised erection of a building or extension to a building, a 'material' change of use of land, or the display of unauthorised advertisements. Other examples of potential breaches of planning control are:
- Unauthorised works to Listed Buildings;
 - Unauthorised works to trees subject of a tree preservation order (TPO) or in a conservation area;
 - Breaches of conditions attached to planning permissions;
 - Not building in accordance with the approved plans of planning permissions;
 - Untidy land which has a significant impact on the amenity of the wider area;
 - Unauthorised engineering operations, such as raising ground levels or earth bunds.
- 2.2 The following examples are **NOT** normally breaches of planning control:
- Internal works to a building that is not listed;
 - Parking of commercial vehicles on the highway or on grass verges;
 - Running a business from home, where the residential use remains the primary use
 - Land ownership disputes or trespass issues;
 - Infringements of covenants in property Deeds;
 - Any works that benefit from planning permission (sometimes called "Permitted Development") under the relevant Government regulations (for example, extensions within specified size limits).

3. HOW DO I REPORT A BREACH?

3.1 To help us deal with your case as soon as possible it is important to provide as much information as you can. Below is a list of the type of information that would assist us in dealing with your complaint:

- An accurate description of the location or address for the particular site;
- A detailed description of the activities taking place and why they are cause for concern;
- Names, addresses and phone numbers of those persons responsible for the alleged breach or the land owners;
- The date and times of when the alleged breach took place;
- Any other information or evidence (including photos) that may be able to assist;
- Your name and address or e-mail address.
- How the breach you are alleging affects you and your property

3.2 Complaints about alleged breaches should, wherever possible be made via the Council's website – <https://www.molevalley.gov.uk/home/building-planning/planning-applications/planning-enforcement/reporting-planning-breach>

3.3 We will not investigate anonymous complaints.

4. THE COUNCIL'S COMMITMENT TO YOU

4.1 Planning enforcement is not a "blue light service" that can step in and immediately respond to stop alleged breaches of planning control. Nevertheless, we will:

- a. **INVESTIGATE ALL ALLEGED BREACHES OF PLANNING CONTROL** – see the section above on 'How to report an alleged breach';
- b. **REQUIRE YOU TO PROVIDE CONTACT DETAILS BUT WE WILL KEEP THEM CONFIDENTIAL** at all times, unless required to disclose as part of court proceedings;
- c. **QUICKLY REGISTER AND ACKNOWLEDGE YOUR CASE** according to its priority level and provide you with a reference number with a named officer as the point of contact;
- d. **GIVE EACH CASE A 'PRIORITY RATING'** (see approach set out below) and aim to initiate investigations within the timescales set;
- e. **ACTIVELY PURSUE YOUR CASE** until it is closed, when we will let you know the outcome;
- f. **INVESTIGATE ALL ALLEGATIONS OF PLANNING BREACHES AND AIM TO CARRY OUT AN INITIAL INVESTIGATION¹ IN 70% OF ALL CASES IN ACCORDANCE WITH THE COMPLAINT'S PRIORITY.** All complaints will be investigated. Investigations into alleged breaches of planning control can be complex and may take some time but we will aim to hit this target.

4.2 On receipt we will categorise breaches by priority – the priority may change once we have been able to visit the site and fully assess the situation. The categories are as follows:

¹ This could include checking the planning and enforcement history of the site; researching the activities taking place on the site; making a site visit.

OUR APPROACH	Acknowledge; set up case and prioritise	Initiate Investigation
High Priority	Within 24 hours	Within 24 hours
Medium Priority	Within 24 hours	Within 5 working days
Low Priority	Within 24 hours	Within 15 working days

5.

WHAT HAPPENS WHEN A BREACH HAS BEEN REPORTED?

5.1 There are various possible outcomes:

- **NO BREACH EXISTS** – Following a site inspection it may be found that there is no breach of planning control because, for example, the unauthorised use has ceased, or the development is permitted or lawful development.
- **THERE IS A BREACH OF PLANNING CONTROL BUT NOT EXPEDIENT TO PURSUE** – Just because a breach may exist does not automatically mean that formal action will be taken. It is a common misconception that a breach of planning control is a criminal offence and should automatically attract enforcement action. The enforcement procedure is intended to be remedial rather than punitive. Central Government Guidance in the National Planning Policy Framework (NPPF) clearly sets out that enforcement powers are discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. In light of this, minor technical breaches that have only a small impact may not warrant the time and expense in taking action.
- **NEGOTIATIONS TAKE PLACE TO FIND A SOLUTION** – The first priority is to try and resolve any breaches through negotiation. When such negotiations fail to secure a solution formal action will be considered - MVDC will not allow negotiations to become protracted.
- **A RETROSPECTIVE APPLICATION IS APPROVED** - A retrospective application will be invited where there is a reasonable likelihood that planning permission may be granted in line with local and national planning policies or where a development may be made acceptable by way of imposing suitable conditions to control how it takes place.
- **FORMAL ACTION IS TAKEN** - On average around one in ten of the alleged breaches of planning control of cases we receive result in formal action being taken. There are a range of formal powers the Council can use to remedy breaches of planning control. The more common forms of enforcement action are listed below.

6. KEEPING IN TOUCH

6.1 We recognise that if you tell us about a development that you think should not be taking place, you will want to know what is happening to your complaint. We will prioritise our resources to following up alleged breaches of planning control by visiting sites to assess the subject of the complaint and whether a breach of planning control has occurred. We will update complainants when we reach a stage in the investigation where there is something concrete to report. All complainants will be advised of the outcome of their complaint once the case has been closed.

Type of enforcement action	Purpose
Planning Contravention Notice	Requires persons to divulge information in respect of land and activities. Often under-taken to determine if there is a breach of planning control and to help decide the appropriate course of action.
Breach of Condition Notice	Requires compliance with conditions specified within a planning permission – no right of appeal. Non-compliance can result in prosecution
Enforcement Notice	Requires particular steps to be taken to remedy a breach of planning control – there is a right of appeal.
Stop Notice / Temporary Stop Notice	Requires the unauthorised activities to cease either immediately or for a period of up to 28 days.
Section 215 Notice	To secure the proper maintenance of land and buildings where severe harm would be caused to public amenity.
Direct Action	MVDC may enter land to take the necessary steps to secure compliance with an Enforcement Notice. This is at MVDC's cost although these are recoverable from the landowner.
Injunctions	To prevent unauthorised development and only used in a very limited number of specific circumstances.
Prosecution	Failure to comply with a notice is a criminal offence. To secure compliance with any formal enforcement notice and / or to bring the offence before the court.