



## **Rushcliffe Borough Council's Planning Enforcement Code of Practice**

Planning enforcement will be carried out in accordance with the principles established under the Council's Corporate Enforcement Policy. The Council expects land owners and developers to comply with planning legislation and not carry out development until the necessary planning permission has been obtained and indeed in most cases no problems arise. When development does take place without permission the Council has a full range of enforcement powers available to it to establish whether a breach of planning control has taken place, what harm is caused as a result of the breach and to remedy the situation.

### **Complaints**

Breaches of the planning rules are normally brought to our attention by neighbours, Councillors or Parish/Town Councils or as we monitor development under way. There is a procedure established for investigating such complaints.

1. Allegations that development has been carried out without planning permission will be recorded individually. We aim to acknowledge complaints by contacting complainants within 5 working days giving the name of the officer dealing with the matter.
2. We aim to investigate all complaints about unauthorised development and other breaches of planning control, although priority will be given to those alleged breaches in categories 1 – 4 below. In most cases it will be necessary for an officer to visit the site (sometimes on more than one occasion) which is the subject of the complaint to determine whether planning permission is required and who is responsible. We will expect to see inside buildings if the complaint relates to a change of use, and may wish to see the whole of the property to establish the facts. We aim to visit sites where the complaint relates to categories 1 to 4 and make a preliminary assessment by the next working day following receipt of the complaint, and other sites within 5 working days.

### Highest Priority

- (1) Unauthorised demolition or partial demolition of a building which it is essential to retain.
- (2) Where building(s) are under construction
  - (a) Where no planning permission exists (might be permitted development).
  - (b) Where planning permission has been granted but development may not be in accordance with the plans
- (3) Any unauthorised development which causes immediate and irremediable harm in the locality e.g. in an SSSI or Conservation Area or likely to result in significant harm to amenity.

- (4) Felling or works to protected trees.

#### Medium Priority

- (5) Breaches of conditions.
- (6) Unauthorised development where the time limit for enforcement action will expire within the next 6 months.
- (7) Unauthorised uses of land.
- (8) Unauthorised display of advertisements.
- (9) Untidy land.

#### Lowest Priority

- (10) There is no significant conflict with planning policies or objectives or harm to amenity.
  - (11) A favourable recommendation would be made if an application to authorise the development were made
  - (12) The development is likely to be of a temporary nature.
3. If the investigation shows that no breach of planning control has taken place the complainant will be informed of this within 5 working days of the investigation file being closed. The Council will endeavour to direct a complaint to the relevant authority if the complaint is not a planning issue.
  4. Where it is not possible to find out whether a breach of planning control has taken place, we may issue a "planning contravention notice" (PCN) requiring information on precisely what is taking place and an explanation as to why no planning permission has been sought. The complainant will be kept informed of any response we receive to the notice.
  5. Where it is clear that a breach of planning control has taken place we will provide help and advice to owners/occupiers and offer all reasonable opportunity for the matter to be resolved without formal action where this is appropriate. Where appropriate we will invite a planning application. This has the advantage of allowing us to get full details of the work that has taken place and consult neighbours before making a decision. It is also in line with Government advice. It may also be possible to secure amendments or impose conditions which overcome the concerns of neighbours. Once an application has been submitted it will be treated on merit in relation to planning policies like any other application. We will however take formal enforcement action where the matter cannot be resolved in a reasonable time or by other means providing it is appropriate and expedient to do so. In extreme cases, the Borough Council will consider the issue of Stop Notices where relevant and applicable.
  6. If an application is not submitted, we will decide whether or not further enforcement action should be taken. If, for instance, the unauthorised development is considered not to cause any harm, then enforcement action will not be pursued. (The carrying out of development without planning permission is not itself an offence). The complainant will be informed of the decision to take no further action and the explanation as to why the file is to be closed within 5 working days of the decision. If, on the other hand, the decision is taken to proceed with enforcement action, the complainant will be informed.

7. The name and address of any complainant will be kept confidential to the Council. However, if an appeal is lodged or, if representations are made on any subsequent planning application these will become public documents as a background paper in due course.
8. Enforcement Notices are documents served by the Council which require the use of the land to stop and/or any buildings or structures that do not have planning permission to be removed. The Council must find out the names of all the owners and occupiers of the property and make sure they are served a notice. The notice itself has to be precise as to what action the Council wants taken and by what date. There are rights of appeal to the Secretary of State for Communities and Local Government and the notices can be challenged if they are inaccurate or incorrectly served.
9. When conditions imposed on a planning permission are being disregarded, the Council can serve a "Breach of Condition Notice" on the developer or occupier/owner. If this is not complied with, we can take legal action. There are no rights of appeal to the Secretary of State against a Breach of Condition Notice. Where appropriate the Council will use this procedure in preference to the service of Enforcement Notices.
10. The complainant will be informed when the Enforcement Notices are served, what action they require and when the period of compliance runs out. We aim to inform complainants within 5 working days of the Notice being served.
11. The complainant and neighbours will be advised of any appeal that is lodged against an Enforcement Notice and the grounds upon which the appeal has been made. They will then be able to make further comments to the government planning inspector dealing with the case, **although at this stage the names and addresses cannot be kept confidential.**
12. Arrangements to inspect the premises will be made by the officer dealing with the case no later than 5 working days after the compliance period runs out in order to find out whether the requirements of the Enforcement Notice have been satisfied.
13. If the unauthorised development remains in place after the Enforcement Notices become effective the Council will start legal action as soon as possible taking into account the Code of Crown Prosecutors. The complainant will be kept informed of the outcome of any prosecution. As a last resort the Council will consider carrying out works itself to remedy the breach.
14. The officer inspecting the site will carry identification and authorisation.
15. Action by the Council will take into account the rights of those making the complaint as well as those being complained about, and will be in accordance with the law, will pursue legitimate planning aims and will be proportional to the harm being caused.

### **How You Can Help Us**

- If you are unsure as to whether planning permission is required, please contact Planning and Growth for advice **before** starting work.
- If you already have planning permission check to see if any conditions must be satisfied **before** starting work and ensure you build in accordance with the approved plans. If you want to make any changes please contact Planning and Growth **before** carrying out work not shown on your approved plans.

- When advising us of an alleged breach of planning control, please
  - (a) ensure you provide full and accurate details of the alleged breach, including site location/address of property concerned;and
  - (b) full details of your name and contact arrangements so that we can keep you informed of the progress in our investigations.
- If you need to contact us after the initial complaint, please quote our enforcement case reference number which will be given on any letters to you.
- Please advise us if the alleged breach of planning control ceases or of any other change in circumstances.
- Please treat our staff with courtesy – they are trying to help.

You can contact us: by telephone on 0115 981 99 11

by e-mail at [planningandgrowth@rushcliffe.gov.uk](mailto:planningandgrowth@rushcliffe.gov.uk)

by post to: Head of Planning and Growth  
Rushcliffe Borough Council  
Rushcliffe Arena  
Rugby Road  
West Bridgford  
Nottingham  
NG2 7HY

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## **CODES**

ADVERT	Unauthorised Advert Medium 5
BUILD	Building Works / Construction High 1
COND	Non compliance with planning condition Medium 5
FENCE	Fence/Gates/Walls High 1
HIGHW	Affecting a Highway Medium 5
LISTED	Listed Building High 1
MOBILE	Unauthorised Siting of Mobile Home Low 10
MULTI	Multi-occupation Low 10
PLANS	Not in accordance with approved plans High 1
TIP	Tipping Medium 5
TREES	Unauthorised work to trees High 1
UNTIDY	Untidy sites Medium 5
USE	Change of Use Medium 5
WORK	Working from a residential property Medium 5