

How is an appeal heard ?

Appeals are heard by an independent body called the Planning Inspectorate. There are three types of appeal:

- 1) Written representations: an exchange of written correspondence
- 2) A hearing: essentially an informal discussion chaired by the Inspector
- 3) A public inquiry: where the parties are normally legally represented

Costs can be claimed if unreasonable behaviour by the other party has caused unnecessary expense, such as not being able to substantiate a reason for issuing the notice or a ground of appeal.

Can the public have a say?

We notify the Parish Council and local residents about the appeal. They can comment direct to the Planning Inspectorate. They can also attend hearings and public inquiries and participate at the inspector's discretion.

How can I find out more?

Information is available on our web site or by contacting the Planning Division, at the address below.

The Department for Communities and Local Government has overall responsibility for planning. Their web site includes planning guidance and advice notes together with links to other relevant sites.

<http://www.communities.gov.uk>

**To obtain a copy of this
leaflet on tape or in large
print please telephone
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Planning Enforcement

Enforcement notices explained

This leaflet explains what enforcement notices are, when they are used and the process involved.

What is an enforcement notice?

An enforcement notice is the most commonly used planning power to require a breach of planning control to cease or to be remedied.

The notice explains the alleged breach, the reason for its issue, the steps required and the period within which they should be taken.

When is it used?

Enforcement notices are normally used as a last resort when negotiation to secure a resolution has been unsuccessful.

We only issue a notice where it would serve a useful planning purpose, such as to address significant harm to visual or residential amenities, or highway safety.

Where appropriate we seek expert advice on the effect of the works/use.

A notice should not be used to regularise development which is otherwise acceptable, or if a breach is trivial.

The aim is to remedy the harm being caused rather than to punish the parties involved

The key question is: “if an application for planning permission were submitted, would it be unconditionally approved?”

Where we refuse an application to retain unauthorised works/use, we normally issue a notice to enforce that decision.

Who decides ?

We prepare a written report which assesses the effect of the development, similar to those drafted for planning applications.

Senior officers in the Planning Division decide whether to commence enforcement proceedings. Our Legal Division then prepare and issue the notice.

How long does it take?

We have to carry out a number of legal checks that can take around 5 weeks.

Once issued, the notice takes a minimum of 28 days to come into effect, at which point the period for compliance starts.

The period for compliance must be reasonable, allowing sufficient time for the required works or relocation of a use.

Where we consider the harm to be very serious, we can also serve a Stop Notice which can require named activities to stop, usually within a period of 3 days.

Who is it served on?

The occupier and any person who has a legal interest in the land, this includes the owner(s) and any mortgage company.

What happens if it is not complied with?

It is a criminal offence to fail to comply with an enforcement notice. We have three main powers to secure compliance.

- 1) Prosecution, normally in the Magistrates Court where the penalty on conviction is a fine of up to £20,000 (unlimited in the Crown Court)
- 2) To carry out the work and recover the cost from the owner
- 3) To seek an injunction in the County or High Courts. This is only used in the most serious cases.

Is there a right of appeal?

Any person or company who is served with a copy of the notice, has an interest in the land or who is an occupier can appeal before the notice comes into effect. The compliance date is suspended pending the outcome of the appeal. Lodging an appeal does not affect the terms of any associated Stop Notice.

What are the grounds for an appeal ?

There are 7 grounds of appeal

- a) planning permission should be granted
- b) the alleged breach has not occurred
- c) there been no breach of planning control
- d) the alleged breach is immune from action through time
- e) the notice was not served properly
- f) the steps required by the notice are excessive and lesser steps would overcome the objections
- g) the time given to comply with the notice is too short