



Local Enforcement Plan

Adopted by Cabinet on 13 December 2016

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Part 1 – Introduction to this Plan

- 1.1 The City Council's Strategic Plan sets its vision, priorities and objectives, 2016-2020. The City Council has identified the following strategic priorities:
- Support our businesses to thrive, delivering investment in our towns and communities.
 - Work with residents to make our towns and communities great places to live.
- 1.2 These priorities are reinforced by strategic objectives, which include:
- Foster enterprise and entrepreneurship to support new and emerging local business growth.
 - Secure investment to protect and create jobs.
 - Deliver an increase in the number of new houses of various tenures, prioritising development on brownfield land.
 - Ensure our city is clean and well maintained, with high quality green spaces and parks
 - Preserve and enhance the unique heritage of our city
 - Deliver a significant improvement in housing quality by investing in homes and driving up housing standards
 - Reduce crime, anti-social behaviour and the fear of crime
 - Involve communities in making each town and neighbourhood a great, vibrant and healthy place to live and work
 - Promoting the health and wellbeing of all citizens.
- 1.3 The City Council's vision for 2030 is to transform Stoke-on-Trent into a place which offers prosperity and quality of life by design for the people who live and work here. Our strategy to revitalise the city is focused on boosting investment, creating jobs and repositioning our area, both to the outside world and in the hearts and minds of people who live here. Planning Enforcement plays an important role in achieving this transformation, by balancing heritage and regeneration priorities with the need to take effective action where there are significant breaches of planning control.
- 1.4 A successful planning enforcement service creates a better place for those living, learning, visiting and working within the City. Effective planning enforcement also engenders public confidence and maintains the integrity of the development management process, by ensuring that development is being implemented in accordance with the relevant planning permissions.
- 1.3 This document sets out the City Council's corporate strategy and principles regarding Planning Enforcement. It provides the operational decision-making framework for dealing with all breaches in planning control and sets out the City Council's planning enforcement principles, priorities and aspirations.
- 1.4 The Local Enforcement Plan reviews and updates the previous City Council's Statement of Planning Enforcement, which was published in March 2010. It will enable us to make consistent and transparent decisions when deciding whether to initiate formal enforcement action. It also highlights customer care and performance expectations.

- 1.5 The three key objectives of planning control are:
- Granting Planning Permissions for development that accord with the Development Plan and other material considerations.
 - Implementation of Permissions in accordance with approved plans and Conditions.
 - Regularisation or cessation of unacceptable development.

THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

Paragraph 207: *“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. Local planning authorities 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 it is appropriate to do so”.*

- 1.6 In line with the above provisions of the NPPF, the Council is committed to engendering a compliance culture, to protect and enhance the environment of the City. It will seek to ensure that planning permissions are correctly implemented and that any breach of planning control is effectively and efficiently remedied. The Council will maintain the integrity of its development management process by taking the necessary enforcement action when it is expedient to do so. The Council will implement the policies of this Strategy in accordance with the law, in the public interest and in the principles of fairness and proportionality.
- 1.7 This Local Enforcement Plan reflects the City Council’s wider enforcement principles of consistency, fairness, proportionality, transparency and objectivity. The Plan encourages cross-cutting enforcement activity and the key to ensuring that these principles are implemented corporately is close working relationships between all regulatory functions.
- 1.8 Planning Enforcement decisions are taken with regard to the City’s strategic regeneration direction and by the broad framework for the future development of Stoke-on-Trent, as set out in the Core Spatial Strategy, which was formally adopted by the Council on 1 October 2009. Further information can be found at: <http://www.stoke.gov.uk/ccm/navigation/planning/planning-policy/> This Plan also emphasises the current City Council’s aspirations for utilising planning enforcement powers to facilitate improvements to heritage assets which are at risk and in states of neglect and disrepair. Further details relating to these priorities are included in the Appendix.
- 1.9 This Plan has been drawn up having regard to the Town and Country Planning legislation, regulations, national planning policy guidance, human rights and other investigatory powers legislation (as outlined at the end of this Plan). Details of local or national policies can be viewed at the City Council offices. Details of legislation can be accessed through various sources, for example at a local library, by speaking to a City Council planning officer or on-line, using web sites such as the Planning Portal (www.planningportal.gov.uk) or the Central Government Department of Communities and Local Government (www.communities.gov.uk).

- 1.10 In March 1998 the Cabinet Office, in partnership with the Local Government Association (and other principal local associations), business and consumer groups, published the central and local government “Concordat on Good Enforcement” (the Enforcement Concordat). Since then a significant number of local authorities, government departments and government agencies have signed up to the Enforcement Concordat.
- 1.11 This Council seeks to ensure that all enforcement action takes account of the principles encompassed within the Enforcement Concordat. The Enforcement Concordat is a voluntary, non-statutory code of practice. It sets out best practice, in terms of the Principles of Good Enforcement:
- Standards: setting clear standards
 - Openness: clear and open provision of information
 - Helpfulness: helping business by advising on and assisting with compliance
 - Complaints about service: having a clear complaints procedure
 - Proportionality: ensuring that enforcement action is proportionate to the risks involved
 - Consistency: ensuring consistent enforcement practice.
- 1.12 This Plan sets out the following:
- What the Council will investigate.
 - How the Council will deal with complaints and/or enquiries about alleged breaches of planning control.
 - How investigations are prioritised.
 - The planning enforcement process; and how the Council will deal with both complainants and alleged offenders.
 - The “Enforcement Toolkit” - i.e. the mechanisms that are available to address breaches.
 - Enforcement policies.
- 1.13 This Plan has been subject to consultation and was formally adopted by the Council’s Planning Committee on September 2016 (to be confirmed).

Part 2 – The Operational Framework

2.1 The operational decision-making framework for dealing with breaches of planning control for the planning enforcement service are categorised into the following sections:-

- General Principles
- Priorities for Tackling Enforcement
- Timescales for Dealing with Complaints
- Investigation Techniques

2.2 General Principles

2.3 The following general principles will be applied by officers at all times:-

- We will at all times act professionally and answer all reasonable questions, provided that confidentiality is not breached. We will use plain language and will always treat people courteously.
- During normal office hours, an officer will always be available to take queries either by telephone or in person at the Civic Centre. All attributable complaints will be thoroughly investigated.
- The officer investigating a complaint will do so in a fair and objective manner. An officer will not deal with a complaint in the circumstances where either a complainant or an alleged offender is known to them or where they or their family have had any personal or business dealings with those persons.
- We will encourage those making a complaint regarding an alleged breach of planning control to give as much information as possible, including their own address and contact details. Full details of how to make a complaint is set out below. Anonymous complaints will not be dealt with. Any complainant who does not wish to leave their contact details will be advised to contact their local Councillor, and ask them to report the matter on their behalf. This process is in order to provide clear evidence of what is happening, to gain a full understanding of the planning harm that is being caused by the alleged breach and to ensure that complainants are kept informed of progress of investigations. Complainants will often be asked to keep an “Activity Log” to assist our investigations, for example, to demonstrate the frequency that an alleged breach is occurring.
- Complainant’s details are not disclosed during the investigation process. Complaints will be treated in confidence unless formal legal action is necessary. Should a case reach prosecution stage, the identity of a complainant will not be revealed without their prior written agreement.
- Wherever practical, we will always seek to negotiate a solution to the problem. Formal legal action will only be taken when all other avenues have been fully explored.
- Where a breach of planning control has been identified, a developer always has the right to submit a regularising planning application. However, such a retrospective application for an unauthorised development will only be encouraged if it is likely that such an application will be considered favourably and not likely to be refused.
- In addition to responding to complaints, we will, where appropriate and subject to available resources, instigate directed planning enforcement action on a pro-active basis against specific instances of unauthorised development that are causing harm, in order to prevent conflict and problems at the earliest practical opportunity.

HOW TO MAKE A PLANNING ENFORCEMENT ENQUIRY OR COMPLAINT

ON-LINE: An on-line enquiry form is being created and will be available shortly

EMAIL: planning@stoke.gov.uk

TELEPHONE: 01782 - 232372

BY POST: Planning Enforcement, Development Management, Stoke-on-Trent City Council,
Town Hall, Glebe Street, Stoke-on-Trent, ST4 1RN.

- 2.5 The Development Management Service has a dedicated enforcement and compliance team, which deals with all forms of planning enforcement work. The team deals with over 500

cases of unauthorised development each year. These are primarily complaints received from the public but also include an increasing workload of complaints reported by other Council officers. The team also monitors compliance with Section 106 Obligations.

- 2.6 In order to deal with development that is causing the most harm, at the earliest opportunity, it is essential to prioritise the most important cases. A three-point prioritisation approach, defining the priorities, and the recommended timescales for carrying out initial site visits is set out below:-

Priority 1 (Urgent Cases)	Priority 2 (Important Cases)	Priority 3 (Routine Cases)
<ul style="list-style-type: none"> • Allegations of activities that will likely cause irreversible or substantial harm in planning terms and where it is considered necessary that the works immediately cease will receive the highest priority. • Examples include, but are not limited to: works to protected trees, works to listed buildings where the loss of important architectural features may occur, changes of use where waste material is being imported etc. Loss of ancient woodland and trees. 	<ul style="list-style-type: none"> • Allegations of activities that are/may cause significant harm to visual or residential amenity in planning terms will receive medium priority. • Examples include, but are not limited to: breaches of pre-commencement conditions, residential extensions which may have an adverse impact on amenity, development in the Green Belt. 	<ul style="list-style-type: none"> • Other breaches of control which will be generally be dealt with in order of date of receipt; specifically, allegations of activities that are/may not cause significant harm to visual or residential amenity in planning terms will receive low priority. • Examples include, but are not limited to: residential works which may be permitted development, adverts, fence/walls, CB aerials, satellite dishes, untidy land/buildings, shutters, replacement windows etc.
<ul style="list-style-type: none"> • Site visits within 1 working day 	<ul style="list-style-type: none"> • Site visits within 14 working days 	<ul style="list-style-type: none"> • Site visits within 30 working days

WHAT THE COUNCIL WILL NOT INVESTIGATE

Complaints about the following non-material planning considerations:

- Private land ownership issues, such as boundary disputes or matters included within Property Deeds or land contracts,
- Issues affecting property values,
- Rights of light,
- Loss of a view,
- Financial concerns, such as a loss of trade or increased competition,
- Personal issues relating to the alleged offender.

- 2.7 The following procedures will be followed when dealing with complaints

- Complaints will be acknowledged in writing or by email within 5 working days of receipt. Complainants will be advised of the officer dealing with their complaint and will be kept fully updated of progress as the investigation develops.
- **‘Urgent Cases’** – A site visit will be made, where possible, on the same day. Otherwise the following day of receipt of the complaint. Contact with the site owner will be attempted as soon as possible.
- **‘Important Cases’** – We aim to carry out a site visit or attempt to contact the site owner, in order to arrange a site visit, within 14 working days of receipt of the complaint.
- **‘Routine Cases’** – We aim to carry out a site visit or attempt to contact the site owner, in order to arrange a site visit, within 30 working days of receipt of the complaint.
- Complaints will be processed, investigated and resolved without undue delay, although following the initial site visit, the priority level may change.
- We will aim to take a decision about possible outcomes within 8 weeks of receiving the complaint. However, this target date will be dependent on the complexity of the case and the ability to gather evidence of any alleged breach. The various outcomes that are available include: i) no breach of planning control identified, ii) resolved, by negotiation, an appropriate solution, iii) regularising planning application submitted, iv) not expedient to take action, and v) breach identified and formal action authorised.
- All complainants will be notified either in writing, by email or by telephone of the outcome of their complaint once its outcome has been confirmed.
- We will aim to carry out a check on compliance with a formal notice within 10 working days of the compliance period expiring.
- We will monitor and publish details of our customer care expectations.
- We will report to Planning Committee details of complaints, progress, notices served and action taken on a regular basis.

2.9 Investigation Techniques

2.10 The Planning Enforcement Officer will use a number of techniques to investigate a complaint. The initial objective of the investigation is to determine whether a breach of planning control has occurred. The techniques may include:

- Site visits and monitoring activities, including taking photographs. Initial site visits will often be made without an appointment. Any covert investigations will follow the RIPA procedures.
- Checking the planning history of the site.
- Checking other information, such as web-sites and aerial photographs.
- Checking information held by other City Council sections, such as Council Tax; or held by other organisations, such as the Land Registry.
- Obtaining additional information from the complainant and from other neighbours.
- Serving the alleged offender with a Request for Information (RFI), under Section 330 of Planning Act or under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- Serving the alleged offender with a Planning Contravention Notice (PCN).

2.11 Due to the nature of planning enforcement work, it is not normally prudent or resourceful to pre-arrange the initial visit. The case officer will therefore not normally give advance warning of a site visit. This may mean that access cannot be gained on the first attempt and it may

take longer than the initial site visit period to conduct an effective site visit. If necessary, we will use our powers of entry, in accordance with the Planning Legislation, to enable investigations to be carried out. In the case of complaints concerning residential properties, 24 hours notice will be given. Denying access to the case officer is an offence. Although the case officer will seek the co-operation of the owner/occupier of the premises through discussion or service of a Notice of Intended Entry (NOIE), the Council may seek a warrant to enter and/or prosecute for wilful obstruction. Where necessary, to gather evidence to assist enforcement or prosecution action, we will carry out investigations outside office hours.

2.12 For some cases, the alleged breach needs to be monitored over a time period, to assess whether the activities are occurring on a frequent basis. This monitoring will then confirm whether a breach has occurred. For some cases, further information may be required, and the complainant may be asked to provide a diary of activity over a 3-4 week period.

2.13 The investigations may result in a number of different scenarios:

That there is no evidence that a breach has occurred	<ul style="list-style-type: none"> • in which case the Council will take no further action
If the complaint refers to non-planning matters	<ul style="list-style-type: none"> • Case will be referred to another Council service or outside agency • If a civil matter, the complainant will be advised to seek independent legal advice .
If the complaint relates to a very minor or insignificant matter	<ul style="list-style-type: none"> • If the case is regarded as being “de minimis”, the Council will assess the complaint but is likely to decide that no further action will be taken and the case will be closed.
That the complaint relates to works that are “permitted development”	<ul style="list-style-type: none"> • this is where the development would normally require permission, but is automatically granted through the Town and Country Planning (General Permitted Development) (England) Order 2015.

2.14 If it is confirmed that a breach has occurred, the matter will be assessed and again may result in a number of different situations:

resolved by
negotiation or an
appropriate solution

- Where it has been established that a breach of planning control has occurred, the council will normally attempt to negotiate a solution to regularise the breach of planning control without recourse to formal enforcement action.
- However, these negotiations will not be allowed to hamper or delay the consideration of enforcement action where the breach of control causes serious harm to amenity.

regularising planning
application
submitted

- If the breach relates to development that may be acceptable, the offender may be asked to submit a retrospective planning application. This will enable any complainants and other consultees to make representations to the application and, if approved, will enable the Council to impose Conditions which give better control over the development.
- If the planning application is refused then formal action may proceed.

Formal action

- Formal action will only be taken when it is considered "expedient", for example where the breach is causing, or likely to cause, significant harm and where that action is in the public interest. Action cannot be taken simply because a planning application has not been submitted.

not expedient to
take action

- The Council may decide that, following an assessment of the breach and the harm, that it is not expedient to take action. In such cases, a formal report will be prepared and any decision on not taking formal enforcement action will be made in consultation with ward councillors.

EXPEDIENCY OF ACTION

When the City Council have established all the facts relating to an alleged breach, they must come to a decision about whether action is expedient. Considering expediency is not an exact science; the process involves the consideration of whether the breach is significant or harmful, and whether it is reasonable and proportionate to take action, taking into account all the circumstances of the case.

Part 3 – Enforcement Powers

- 3.1 The following general principles will be applied by officers when investigating complaints at all times. Where our investigations conclude that the complaint relates to cross-cutting matters within the Council or involve outside agencies, we will work with the relevant other Council service or outside agency to address the complaint and ensure that a single agency (which may not necessarily be Planning Enforcement) is taking responsibility for co-ordinating action.
- 3.2 Where negotiation fails to resolve a breach of planning control, it may be necessary to instigate legal proceedings. Planning legislation sets out the range of powers that are available to Local Planning Authorities to address unauthorised forms of development. These include Planning Contravention Notices, Breach of Condition Notices, Enforcement Notices, Stop Notices, Temporary Stop Notices and Injunctions. Powers are also available to improve the condition of untidy land and buildings (Section 215 Notices) and to resolve issues of “high hedges”. The full range of powers are outlined in more detail at the end of this Statement. Unless directly planning related, the City Council’s functions regarding Untidy Land (Section 215) Notices are dealt with by the Environmental Crime Unit (ECU).
- 3.3 Regarding unauthorised works to Listed Buildings, unauthorised demolition within a Conservation Area, unauthorised works to trees with Tree Preservation Orders and the display of unauthorised advertisements; these are criminal offences, which can be subject to immediate prosecution action. Similarly, failure to comply with a formal notice represents a criminal offence. In all cases, prosecution will take place where there is sufficient admissible and reliable evidence that a serious offence has been committed, and where there is confidence that there is a realistic prospect of conviction.
- 3.4 Full details of the range of enforcement powers that are available can be obtained by contacting the Planning Enforcement Team (see details at end of this Plan). Further information can be obtained via the Planning Portal (www.planningportal.gov.uk) or the Department of Communities and Local Government (www.communities.gov.uk).
- 3.5 The City Council’s Development Control and General Purposes Committees resolved in 2008 to introduce an amended scheme of delegation regarding planning enforcement responsibilities. The approved responsibilities allow the City Council’s appropriate officers to serve Planning Contravention Notices and requests for information. The approved responsibilities also allow the City Council’s appropriate officers to determine when it is expedient to serve all types of enforcement notices; to issue instructions for prosecution; and to determine that there are insufficient planning reasons for it being expedient to take the above action. However, these responsibilities are all subject to notice being given to the appropriate ward councillors, who have the powers to request that the matter be considered by the Planning Committee.
- 3.6 Furthermore, if the City Council’s appropriate officers decide that it is not expedient to take enforcement action, these responsibilities are subject to notice being given to the appropriate ward councillors, who have the powers to request that the matter be considered by the Planning Committee.

- 3.7 Some matters will still be considered appropriate to be reported to the Planning Committee or will be referred to that Committee under the delegated process. In either case, provided the matter is to be heard in open session, both the complainant and the developer will be given an opportunity to speak at the meeting. An annual report dealing with complaints and action will be provided to the Planning Committee.
- 3.8 Planning Enforcement officers will liaise with colleagues working within the Council's Revenues and Benefits section, to ensure that any persons undertaking unauthorised business uses are also made liable for the payment of the relevant business rates. Furthermore, where a person has been found guilty of an offence under the enforcement provisions of the Planning Act, the Council will consider the appropriateness of instigating confiscation proceedings under the Proceeds of Crime Act 2002.

Part 4 – Post Decision Monitoring of Planning Permissions

- 4.1 The responsibilities of the Planning Enforcement Team also include monitoring of conditions attached to Planning Permissions and the monitoring of planning obligations made in accordance with Section 106 of the 1990 Planning Act. The monitoring of compliance of conditions and planning obligations is an important post-decision element of the “Development Management” concept. Failure to comply with conditions can lead to enforcement action in the form of the service of a Breach of Condition Notice.
- 4.2 Section 106 planning obligations are also known as Planning Agreements. They generally arise as part of a Planning Permission, to mitigate development impacts which cannot be controlled by condition and without which the application would be refused. The mitigation is most likely to be in the form of site specific enhancements; such as highway improvements, education provision, the laying out of open space or the inclusion of affordable housing. The Agreements are legally-binding contracts between the Council, as the Local planning Authority, and the owner of the land (which is usually the developer). Such agreements frequently require the owner/developer to make financial contributions, possibly to off-set specific on-site requirements.
- 4.3 Monitoring of these Agreements allows the City Council to ensure that all the necessary developer contributions and commitments have been made, within the appropriate time scales. Failure to meet the obligations could result in action being taken against the owner/developer for breach of contract.
- 4.4 Our work in post-decision monitoring of planning applications seeks to instigate directed planning enforcement action. We will work with our development partners, on a structured, pro-active basis, monitoring both breaches of Condition and Planning Obligations. Information regarding post-decision monitoring will be included in the planning service's Annual Monitoring Report.

- 1. Planning Enforcement will play an important role in achieving the City Council's visionary transformation, by balancing regeneration priorities and heritage improvements with the need to take effective action where there are significant breaches of planning control.***
- 2. Enforcement complaints will be investigated in accordance with the priorities set out in this Statement.***
- 3. To improve the public's awareness of the enforcement process, the Council will be pro-active in publicising how it monitors development and when successful enforcement action has been taken.***
- 4. The Council will work towards introducing new processes to both assist development monitoring and to increase public and Members' awareness in the enforcement process. These processes may include a scheme for voluntary notification of commencements, annual Planning Committee training, an electronic enforcement register and a quarterly Planning Committee update report. Information regarding post-decision monitoring may be included in the planning service's Annual Monitoring Report. The Council will look towards establishing multi-disciplinary teams, which address cross-cutting issues, particularly relating to enforcement matters which relate to heritage assets.***
- 5. The Council will seek to develop ways of working with other Council sections, external organisations and other key stakeholders, to improve the efficient compliance of Conditions for major developments. They may include the payment of monitoring fees by applicants to be included in Section 106 Agreements.***
- 6. The Council will take a balanced response when dealing with breaches of planning control, in terms of finding an acceptable solution. However, prolonged negotiations will not delay taking enforcement action.***
- 7. The Council will seek to use multi-agency working to co-ordinate action and resolve problems, where there are other appropriate agencies and legislation available.***
- 8. Should circumstances require it, the Council will consider instigating pre-emptive actions (such as the use of Article 4 Directions) to address specific concerns.***
- 9. Should circumstances require it, the Council will consider pro-active action (such as the targeted investigations relating to breach type or area) to address specific concerns.***
- 10. Where a person has been found guilty of an offence under the enforcement provisions of the Planning Act, the Council will consider the appropriateness of instigating confiscation proceedings under the Proceeds of Crime Act 2002.***

Part 6 - Conclusions

- 6.1 The City Council is committed to a planning enforcement service that is fair, efficient and responsive. The service is subject to continuous improvement by regularly monitoring performance and updating policies and procedures in line with changing legislation and guidance. The decision to take action is based on “expediency”, which requires the assessment of a variety of considerations. Prioritisation and timescales will be determined on a case-by-case basis, as set out above.
- 6.2 The Development Management Service aims to provide the highest possible service to its customers. The future aims of the Planning Enforcement Team are to improve interaction with both complainants and developers, we are working towards greater electronic capabilities, including the display of additional enforcement information on our web site and allowing complaints to be made on-line.
- 6.3 Members of the public should feel confident that they can approach the Planning Enforcement Team to discuss any planning enforcement issue. However, at any time the public have the opportunity to seek independent professional advice. In the event that a member of the public is unhappy about the way in which an enforcement matter has been dealt with, the Development Management Team Leader will be able to discuss the situation in more detail and hopefully resolve any issues. Alternatively, the City Council’s complaints procedure is available should this be required. Contact customer.feedback@stoke.gov.uk or telephone: 01782 – 234234.

ALTERNATIVE ADVICE

A complainant or an alleged offender may wish to seek professional advice. A list of RTPI recognised consultants is available at: <https://www.rtpiconsultants.co.uk/>

Limited, free independent advice is available from Planning Aid at: <http://www.rtpi.org.uk/planning-aid/> or by email: advice@planningaid.rtpi.org.uk

APPENDICES

References to Legislation, Policy and Guidance

In considering what action should be taken with regard to planning enforcement, the City Council will take into account Government legislation, guidance and publications including the following:-

- Local Government (Miscellaneous Provisions) Act 1976
- The Planning Acts 1990, 1991, 2004 and 2008.
- The Planning (Listed Buildings and Conservation Areas) Act 1990.
- Human Rights Act 1998.
- The Regulation of Investigatory Powers Act (RIPA) 2000.
- The Proceeds of Crime Act 2002
- The Anti-Social Behaviour Act 2003.
- Equalities Act 2010.
- The Localism Act 2011.
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- Town and Country Planning (General Permitted Development) Order 2015.
- The National Planning Policy Framework (NPPF).
- Planning Practice Guidance: Ensuring effective enforcement.
- Development Control - A Charter Guide" published by the National Planning Forum, February 1993.
- "Enforcing Planning Control - Good Practice Guide for Local Planning Authorities", July 1997.
- "The Enforcement Concordat", published by the Cabinet Office, March 1998.
- "The Regulators Compliance Code" - Statutory Code of Practice for Regulators, BERR, December 2007.
- "The Planning Users Concordat", LGA, July 2000.
- The Core Spatial Strategy, adopted 1 October 2009.
- The Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010 – 2026, adopted 4 April 2013.
- The emerging Joint Local Plan (issues consultation period ended on 29 March 2016).

Examples of Enforcement Powers

Planning Contravention Notice (PCN) – A notice served on a land owner to enable the Council to gather information to establish whether there has been a breach of planning control. A failure to respond is an offence.

Section 330 Notices / Section 16 Notices - The Council may serve a request for information (RFI) under s330 of the Planning Act 1990 or under s16 of the Local Government (Miscellaneous Provisions) Act 1976, requiring information as to interests in land, including ownership and occupation details. A failure to respond is an offence.

Breach of Condition Notice (BCN) – A Notice served to ensure compliance with conditions attached to a grant of planning permission. Must be served on the person responsible for causing the breach to occur (not necessarily the landowner). There are no rights of appeal and failure to comply can lead to prosecution action.

Enforcement Notice – This is the most common form of action and can be used to remedy all forms of unauthorised development. The notice will specify the nature of the breach, the steps required to remedy it and a timescale for compliance. The notice must be served on anyone with an interest in the land. There is a right of appeal against the notice to the Secretary of State. An appeal has the effect of holding any action in abeyance.

Stop Notice – When an Enforcement Notice is served, the Council has the powers to also serve a Stop Notice to cease any unauthorised activity stated within the Enforcement Notice. The Stop Notice can require the breach of planning control to cease almost immediately after it is served. This power is only used where there is serious ongoing harm being caused by the breach, which needs to be remedied immediately. Improper use of a Stop Notice can result in the Council incurring claims for compensation.

Temporary Stop Notice (TSN) – A temporary stop notice can be served independently of an Enforcement Notice. A TSN will require the immediate cessation of an unauthorised activity and expires after 28 days. The main purpose of a TSN is to enable the Council to undertake the necessary investigations, within that 28 day period, to ascertain whether it is expedient to serve an enforcement notice.

Discontinuance Notice – Where an advertisement is erected without consent, the Council can, in certain instances, serve notices securing their removal, under s225 and s225A of the Town and Country Planning Act 1990, to remedy a substantial injury to the amenity of the locality or a danger to members of the public. The Town and Country Planning (Control of Advertisements) Regulations 2007 allows the Council to serve a discontinuance notice against any advertisement, or the use of any advertisement site, which normally has the benefit of deemed or express consent. There is a right of appeal against the notice to the Secretary of State.

Section 215 Notice – A section 215 notice can be used to remedy an untidy state of land or buildings where such is considered to be detrimental to visual amenity. There is a right of appeal to the Magistrates Court.

High Hedge Remedial Notice – A notice served under Part 8 of the Anti-Social Behaviour Act 2003 on the person responsible for the hedge, setting out what must be done and a deadline for the works to be carried out. The Notice is likely to include long-term maintenance of the height of the hedge at a lower height. Both the hedge owner and the complainant have the right of appeal to the Secretary of State.

Tree Replacement Notice (TRN) - Under Section 206 of the Planning Act 1990, a landowner has a duty to replace a tree which is removed in contravention of a tree preservation order. Where the duty is not complied with, Councils have powers to issue tree replacement notices. These powers are exercised where a tree is removed in a conservation area without giving the Council six week's notice and in circumstances when a condition to plant a replacement tree, on a consent to fell a tree under a TPO, is not complied with. There is a right of appeal against the notice to the Secretary of State. Where a TRN takes effect, it is expected that a semi-mature tree would be planted as a replacement.

Notice of Intended Entry (NOIE) - This notice is formal confirmation of the Council's intention to enter land without a warrant. If entry to the land (or any part of it) is refused, that person

obstructing the officers will be committing an offence and the Council will obtain a warrant to gain entry. There is no right of appeal against a notice of intended entry.

Planning Enforcement Order (PEO) - Planning Enforcement Orders were introduced in April 2012 by the Localism Act 2011. The power allows the Council to apply for a court order (a PEO) seeking permission for an extension for the time available within which to take enforcement action. If granted, the Council then has a year to take enforcement action from the date the PEO has taken effect, whether or not the normal four or ten years' enforcement deadline has passed. For a PEO to be granted the breach must have been deliberately concealed and the court must consider it just to make the order having regard to all the circumstances.

Community Protection Notices (CPN) – Brought into use by the Anti-social Behaviour, Crime and Policing Act 2014, CPNs aim to prevent unreasonable behaviour that is having a negative impact on the local community's quality of life. CPNs can be served on individuals or businesses, and will require the unreasonable behaviour to stop and, if necessary, reasonable steps to be taken to ensure it is not repeated in the future. There is a right of appeal and a failure to comply can lead to prosecution action or fixed penalty notices.

Injunction – An Injunction is an Order of the County Court or High Court, which the Court can make as it sees appropriate, to restrain an actual or anticipated breach of planning control. An application will be made by the Council to the relevant Court if the actual or anticipated breach is considered likely to be serious and an immediate risk to health and safety, or is necessary in terms of time. This is the only power that can be used prior to a breach of planning control occurring. Failure to comply with the provisions of an injunction amounts to contempt of court and can lead to imprisonment.

Criminal proceedings – Prosecution action is generally taken through the Magistrates Court. It is the enforcement power which deals with a failure to comply with a formal notice, unauthorised works to Listed Buildings, unauthorised demolition in a Conservation Area, unauthorised works to trees with Tree Preservation Orders and the display of unauthorised advertisements.

Works in Default – The Council may use its powers (such as under Section 178 of the Planning Act 1990) to carry out any remedial works required by a Notice. This will invariably involve putting a legal charge on the property concerned, to ensure that any financial outlay is retrieved on the sale of the property.

Heritage Enforcement – The Council has powers to take action if it considered that a listed building has deteriorated to the extent that its future preservation may be at risk. The Council has the following powers:

Urgent Works Notice - Under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Council may serve a notice requesting that the owner undertakes those works considered necessarily for the preservation of the property. If the owner fails to carry these works, the Council has permission to execute the works and to recover the cost of these works from the owner.

Repairs Notice - Under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Council may serve a repairs notice on the owner. This notice will specify the works which the Council considers reasonably necessary for the proper preservation of the building. This is not restricted to urgent works. If the work hasn't taken place two months after the repairs notice has

been served, the Council can start compulsory purchase order proceedings under Section 47 of the above Act.

Heritage Enforcement priorities - Buildings at Risk

The Council has identified the following Heritage Assets, which are currently either vacant premises, dilapidated, neglected or visually unattractive, as being priorities when assessing potential enforcement action:

	Site and Address	Heritage asset
1	Price & Kensington Teapot works, Newcastle St, Longport	Grade II* Listed Building
2	Central Hotel, Queen St, Burslem	Conservation Area (affects the setting of an adjacent Grade II* Listed Building)
3	Tams Crown Works, The Strand, Longton	Conservation Area (affects the setting of an adjacent Grade II Listed Building)
4	Lord Nelson works, Botteslow St, Hanley	Grade II Listed Building
5	Middleport Mill and Calcining Works, Newport Lane/Midvale St, Middleport	Grade II Listed Building
6	Commerce Works, Commerce St, Longton	Grade II Listed Building
7	Falcon Works, Sturgess St, Stoke	Grade II Listed Building
8	Falcon Potworks, Weatherbys, Old Town Road, Hanley	Grade II Listed Building
9	Trentham Mausoleum	Grade I Listed Building
10	Boundary Works, King St, Longton	Grade II Listed Building

THE PLANNING ENFORCEMENT TEAM AND CONTACT DETAILS

Our Enforcement Team is made up of the following officers:

- Senior Planning Enforcement Officer,
- Planning Enforcement Officer,
- Assistant Enforcement Officer,

You can contact us by phone on: **01782 232372**,

or you can contact us by e-mail at: planning@stoke.gov.uk

or you can write to us at: **Planning Enforcement, Development Management, Stoke-on-Trent City Council, Civic Centre, Glebe Street, Stoke-on-Trent, ST4 1HH**

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