

# Planning Enforcement FAQs

## **1. If I make a complaint against someone will they find out it was me?**

Any details submitted to the Council in relation to an enforcement complaint will be treated in the strictest confidence.

The Council will not reveal the identity of the complaints to an owner or responsible party(s). However, sometimes complainants may be asked provide evidence to assist further with the matter or for any legal proceedings of the investigation

In addition, enforcement complaints may be subject of a Freedom of Information request or if a request is made for all personal data we hold about a person under the Data Protection Act. If such a request is made we will have to consider the matter for release

## **2. I don't want to leave my name or details; will my complaint still be investigated?**

The Council will not investigate anonymous complaints (unless the issue is considered to give rise to a serious planning harm). It is important that officers are able to understand the complaint, identify the harm and make a fair assessment. We also need to prevent malicious and vexatious complaints.

## **3. Somebody has made a complaint against me; can I find out who it was?**

The information submitted to the Council forming part of a complaint is considered to be personal data, which is therefore exempt from the provisions of the Freedom of Information Act 2000 (As Amended) and does not have to be disclosed by the Council. The only details which are revealed are the nature of the complaint made, i.e. 'wall built without planning permission'.

## **4. What happens after I submit my complaint?**

We prioritise each case based on the nature of the issue according to our planning enforcement priorities. We aim to visit the site within the prescribed times scales. Once the facts of the case have been established we will provide you with an update on our findings as soon as possible.

## **5. How long does an investigation take to complete?**

Enforcement cases can be a lengthy and very complicated process. The different types of enforcement cases vary considerably in complexity, as does the time taken for their resolution. The timescale for completion is also dependant on the volume of enquiries submitted to the council and the officer resource available.

Property owners have the right to appeal against formal enforcement action; this will add to the time taken to resolve the case. The Enforcement Officer will keep you updated of any significant progress made with the case as and when appropriate.

## **6. My neighbour does not have planning permission for building work they are carrying out; can you force them to stop building?**

The Council does not have the power under the planning legislation to stop building work in most cases, including for example unauthorised development at a residential property, such as the construction of a garage/conservatory/outbuilding. The exception to this is unauthorised works to a Listed Building where there is the power to serve a notice requiring that unauthorised development is stopped or where serious planning harm is being caused.

## **7. Is building an extension/garage/conservatory etc. without planning permission a criminal offence?**

No. If a building is Listed however, it is a criminal offence to carry out works that extend,

alter and/or demolish any part of the building without first obtaining consent from the Council.

If an enforcement notice is served requiring for example, the removal of an unauthorised development, it is a criminal offence to fail to comply with the requirements of the notice in the time given. It should be noted that the offender has the right of appeal against such a notice.

**8. My neighbour is repairing and/or selling cars on the road outside their house; can the Planning Department do anything about this?**

No. If an obstruction of the highway is being caused by the activity, you should contact the police. In some circumstances the Council's Highways Department may be able to investigate and instigate action under Highways legislation.

**9. My neighbour is building an extension that encroaches slightly onto my property; can the Planning Department do anything about this?**

The Planning Department cannot become involved in matters relating to boundary disputes or allegations of trespass onto your property. If an extension is constructed on a neighbour's property that you believe part to have been built on your land, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter. Similarly, if a neighbour has erected scaffolding on your property to enable them to construct an extension, the Planning Department does not have any power to take action.

**10. Do my neighbours need planning permission to park a caravan/motorhome on their property/driveway?**

Planning permission is not required for the parking of a caravan/motorhome within the curtilage of a domestic property for the use by a family member or friend to use a caravan/motorhome as living accommodation ancillary to the main dwelling. Restrictions on matters of this nature are often written into the deeds of a property but this is not something over which the Council has any powers of enforcement. A civil action would have to be taken in cases such as these.

**11. My neighbour has constructed a fence that blocks off my right of access to the rear of my property; can the Planning Department do anything about this?**

The Planning Department cannot become involved in and has no power to take action regarding matters relating to access rights. If a neighbour has fenced off part of their garden or a shared private drive over which you believe you have a right of access, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter.

Similarly, if your neighbour constructs a fence or wall over a public footpath or a public right of way, the Planning Department does not have the power to take any action in respect of the encroachment. The Council's Highways Department may be able to investigate development that appears to encroach onto a public footpath, and the Countryside and Rights of Way Department may be able to look into any alleged obstruction of a Public Right of Way.

The Planning Department can only investigate an alleged unauthorised boundary wall or fence if it exceeds Permitted Development height restrictions. Further information about Permitted Development Rights can be found on the Planning section of the Council website.

**12. Does my neighbour need planning permission to change the windows or add new windows or roof lights in their house?**

In many cases, with the exception of the installation of a new window opening at first floor level in a side elevation, planning permission is not required to replace the windows, or to add new windows or install roof lights in a residential property, even if the property falls within a Conservation Area. If a property is Listed however, Listed Building

Consent would be required. Planning permission may well be required.

In some cases, Permitted Development Rights, which allow people to insert new windows/roof lights, may have been removed, in which case you would need to apply for planning permission. It is always advisable to check with the Planning Department before you carry out such work.

**13. Does my neighbour need planning permission to use a room in their house as an office? There is something in my deeds that says the properties in this area can only be used for residential purposes.**

A property owner can usually use a room in their property as a home office, without needing to apply for planning permission. The Planning Department cannot become involved in and has no power to take action regarding matters relating to the content of your deeds.

If a neighbour has done something which you think is prohibited or restricted by the deeds, you should seek legal advice from a solicitor/legal advisor about how to pursue the matter.

**14. I have received a letter from Planning Enforcement telling me that my extension is unauthorised. My plans were approved by Building Control so I don't need planning permission separately do I?**

Building Control can grant Building Regulations Approval for a development if it complies with Building Regulations. This is NOT a granting of Planning Permission. Building regulations and planning permission are entirely separate matters and are governed by completely different legislation. In many cases planning permission will also be required and would need to be applied for separately.

**15. I have received a letter from Planning Enforcement telling me that my extension is unauthorised. I have only demolished and replaced my rear extension with an extension of an identical size, so I don't need planning permission do I?**

If you demolish anything such as an extension, garage, outbuilding, wall, or fence and replace it with something identical, you may still require planning permission. Whether or not you need planning permission will depend on a number of factors. The fact that something similar or identical existed before is not a relevant factor in determining whether or not planning permission is required.

**16. I have received a letter from Planning Enforcement giving me the option to submit a retrospective planning application, what forms do I need and where can I find them?** There are several different forms for the submission of a planning application, depending on what you are proposing to do. These are either a Householder or Full application.

There are other application forms for specific issues. For further information and to download the forms, please click here <https://info.westberks.gov.uk/planningforms>

**17. What happens if an enforcement notice is served on me?**

If you are issued with an Enforcement Notice you will be given the details of the breach, the reason for the action, the steps required to overcome the problem, and the time period for compliance. The notice will remain 'registered' against the land/property and not the person upon whom it is served.