



Havant
BOROUGH COUNCIL

Planning Enforcement Plan



September
2015

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1 Background

- 1.1 This document sets out what individuals and organisations can expect from Havant Borough Council's planning enforcement service. These policies and procedures follow the principles of the [Enforcement Concordat for England and Wales](#).
- 1.2 The integrity of the planning process as a whole depends on the Council's readiness to take effective enforcement action when it is appropriate. Fair and effective planning enforcement is therefore important to protect the quality of life for the people who live and work in Havant, and the quality of the Borough's built and natural environment.
- 1.3 Havant Borough Council acknowledges the Government's view that the rapid initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and therefore more difficult to remedy. However, Local Planning Authorities have a general discretion and need take enforcement action only when they regard it as expedient to do so. Action must also be commensurate with the breach of planning control it relates to.
- 1.4 In order to provide an appropriate service to the public, it is important for the Council to give its customers guidance through this document on how the enforcement system operates in practice. The benefit of this will be to:
 - Explain the overall standard of service users of the function can expect
 - Outline how planning enforcement allegations can be made
 - Explain how investigations are undertaken
 - Define priorities so that the resources can be put to best use
 - Set timescales so that service delivery can be measured and reviewed
 - Provide an indication of possible enforcement remedies
 - Ensure compliance with Government legislation and guidance
 - Maintain a consistent, fair and transparent approach to planning enforcement in Havant
 - Provide reporting mechanisms to managers and Councillors in relation to planning enforcement allegations received and enforcement action taken

2 Government Guidance

- 2.1 The Council's Planning Enforcement function is undertaken in accordance with current and emerging Government guidance, policy and legislation which includes:
 - Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004)
 - Town and Country Planning (Control of Advertisements) (England) Regulations 2011
 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Town and Country Planning (Environmental Impact Assessment) Regulations 2011(as amended)
 - Freedom of Information Act 2000

- Data Protection Act 1998
- Localism Act 2011
- National Planning Policy Framework and Planning Policy Guidance
- Police and Criminal Evidence Act 1984
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Equality Act 2010

2.2 The National Planning Policy Framework (NPPF) (paragraph 207) states *'...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.'*

3 Principles of Good Enforcement

3.1 The Government, in 1998 produced a Concordat setting out the Principles of Good Enforcement Practice. Havant Borough Council has signed up to the Concordat and is therefore committed to the following principles:

- **Standards** – draw up and publish clear standards of service and performance the public can expect
- **Openness** – provide information and advice in plain language; be open about how we set about our work; and discuss general issues with anyone experiencing difficulties
- **Helpfulness** – provide a courteous and efficient service and encourage the public to seek advice/information from us
- **Complaints About Service** – provide well publicised, effective and timely complaints procedures that are easily accessible to the public
- **Proportionality** – ensure any action we require is proportionate to the breach
- **Consistency** – carry out our duties in a fair, equitable and consistent manner

4 Overview of Planning Enforcement

4.1 Planning enforcement is a technically and legally complex component of the planning system, which means that taking action is not always as straightforward as it seems. Legislation is often qualified by court judgements and appeal decisions made by the Secretary of State for Communities and Local Government. The Council will operate within the provisions of this legislation, case law and other Government policy and guidance, the main elements of which have been outlined under Section 2.

4.2 In deciding whether it is expedient to take enforcement action, the Council will also give consideration to the objectives and policies of its adopted local

development plan(s), the NPPF, [National Planning Practice Guidance: Ensuring Effective Enforcement](#) (Online version continually updated) (NPG) and other relevant government and local guidance.

- 4.3 Each case will be dealt with on its own merits taking into account the often unique circumstances, along with the level of harm created as well as any history of previous breaches. The Council's resources are increasingly limited and it is essential to prioritise cases that would result in serious harm to the environment or the amenities of the area rather than as a response to who is complaining or how vocally.
- 4.4 In circumstances where in the view of the Local Planning Authority, breaches causing little or no harm, they will receive a lower priority and investigation timescales reflected in that level of priority. Furthermore it is not necessary for action to be taken simply because development or works have been undertaken without the necessary approval. Guidance on how cases will be prioritised is given within Section 7.
- 4.5 The Council's assessment of 'harm' cannot include private interests, such as potential loss of value to someone's property, commercial competition, loss of a view, trespass or breach of covenant. In some situations works or developments are done in ignorance or misunderstanding rather than intentionally. The person responsible will first be given an opportunity to remedy the situation in a timely fashion to ensure the integrity and confidence of the planning system is maintained. The Council will normally seek to resolve breaches through timely negotiation, unless significant and irreparable harm is being caused.
- 4.6 The Council seeks to carry out investigations promptly, efficiently and in accordance with the principles of the Principles of Good Enforcement Practice Concordat. Section 8 of this document sets out the Performance Standards the Council aims for, the results of which will be published on a quarterly basis.
- 4.7 Transparency of our decision-making is essential so that all involved in the enforcement process understand and have confidence in the basis on which the service is provided. The Council's Constitution (and associated scheme of officer delegation) sets out the appropriate level of decision making available to enable officers to progress enforcement cases without reference to the Development Management Committee.
- 4.8 All Enforcement Officers are required to follow the Council's protocol for declaration of interests. If that interest is of a personal, financial or any other nature likely to be prejudicial then that officer will take no part in the investigation and will immediately refer the matter and interest to his/her line manager.
- 4.9 When undertaking their duties, Enforcement Officers will have regard to the Council's Equal Opportunity Policy and appropriate legislation to ensure that investigations are carried out in a consistent and fair manner, free from discrimination on any grounds.

4.10 As part of the enforcement process, Human Rights are also an important consideration that will be taken into account and balanced with any action taken. The relevant elements of the Human Rights Act 1998, are:

- Article 1 of the First Protocol – Protection of property
- Article 6 – Right to a fair trial
- Article 8 – Right to respect for private and family life; and
- Article 14 – Prohibition on discrimination

4.11 The Council will not tolerate any of its staff being threatened with or subjected to physical or verbal abuse in the course of carrying out their official duties and will take appropriate legal action where necessary.

5 Scope of Planning Enforcement

5.1 Havant Borough Council planning service deals with around 800-1000 applications every year including planning permission, advertisement consent, listed building and conservation area consent, prior approvals for telecommunications equipment, demolitions and to carry out work to protected trees. The majority of applications are approved, often with detailed conditions attached or a requirement for additional obligations e.g. the signing of a 'Section 106' Agreement between the Council and the applicant.

5.2 Conditions attached to permissions can require various details to be approved **prior to commencement** of the development and failure to do this is a breach of planning control and in some circumstances (e.g. where conditions go to the 'heart' of the permission) can render any subsequent development as unauthorised. Depending upon the nature of any planning obligation, this also applies to any failure to carry out its terms. It is beneficial to all applicants if any failure relating to non-compliance is addressed as soon as possible. The Council's standard conditions are currently being reviewed. Some of the conditions that have historically been attached to planning permissions may no longer be enforceable, this could be because they refer to non planning legislation, e.g. environmental health legislation or required monitoring that may no longer be able to be resourced.

5.3 In assessing the need for enforcement action, the Government advises Councils to bear in mind the fact that it is **not** a criminal offence to carry out development without first obtaining planning permission required for it. However, this does not apply to the following works which **do** carry an immediate criminal liability:

- Unauthorised works to a Listed Building
- Unauthorised display of advertisements
- Unauthorised demolition of an unlisted building in a Conservation Area
- Unauthorised works to 'protected' trees
- Unauthorised works to trees in Conservation Areas
- Failure to comply with the requirements of an Enforcement Notice

5.4 Where development occurs without the necessary permission in all innocence, this is still a breach of planning control. In circumstances where the breach is

considered by the Council not to cause harm, (i.e. it is judged to be a technical breach) a retrospective application to put the matter right will normally be requested. The Council expects a valid application to be submitted within **three weeks** of this request. It is left to the discretion of the owner to submit an application to regularise any technical breach as this is likely to be beneficial when selling on the property. However, an application cannot be demanded in such circumstances.

5.5 The NPG (paragraph 011) is clear that *‘Nothing in this guidance should be taken as condoning a wilful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:*

- *there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;*
- *development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;*
- *in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where [planning conditions may need to be imposed](#)’.*

5.6 It should also be noted that people can make significant changes and extensions to their home under ‘permitted development rights’ or for some businesses and premises to change their use without needing to apply for planning permission. These rights are granted by the Government under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (Use Classes Order) 1987 (as amended). In such instances planning permission is automatically granted and if the development complies with the order, enforcement action cannot be taken.

5.7 Havant’s Planning Service receives around 300-350 planning enforcement allegations a year. Whilst the type of allegation and their frequency can vary the vast majority of planning enforcement allegations concern the erection of buildings or structures, change of use of buildings and land, running businesses from home and breaches of conditions imposed on planning permissions. The legislation around when planning permission is required can be complex and anyone contemplating building works or using existing buildings or land for new uses (including running a business from home) should seek guidance from the Planning Department. The Council offer a chargeable pre-application advice service. Those individuals who undertake works without planning permission run the risk of incurring delays or costly changes to their project (whilst the matter is investigated and assessed) or at worst demolition of a building or structure or cessation of a use. Havant Borough Council wants its residents and businesses to prosper so avoiding costly mistakes by starting the dialogue with the Council as early as possible is important – prevention is better than cure!

5.8 There are also time limits as to when enforcement action can be taken:

- Usually formal action has to be taken within **four years** in relation to the erection of buildings or the change of use of a building for use as a single dwelling house
- In the case of any other breach of planning control, including breach of planning conditions, action must be taken within **ten years**
- There is no time limit for the enforcement of breaches in relation to Listed Building legislation.

Running a Business from Home - considerations

5.9 There is no definition or particular set of circumstances that define when the character of a house changes to a business. Any assessment will depend on matters of fact and degree. The Planning Portal gives the following advice on working from home:

If the answer to any of the following questions is 'yes', then planning permission will probably be needed:

- Will your home no longer be used mainly as a private residence?
- Will your business result in a marked rise in traffic or people calling?
- Will your business involve any activities unusual in a residential area?
- Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?

Whatever business you carry out from your home, whether it involves using part of it as a bed-sit or for 'bed and breakfast' accommodation, using a room as your personal office, providing a child-minding service, for hairdressing, dressmaking or music teaching, or using buildings in the garden for repairing cars or storing goods connected with a business - the key test is; is it still mainly a home or has it become business premises?

5.10 Starting or running a business from home is a big step to take and whilst there can be advantages, in terms of minimising costs and allowing flexibility. A successful business could attract visitors, noise and other activity. In many cases planning permission is not usually required to use of part of a dwelling house for business purposes so long as it does not change the overall character of the property's use as a single dwelling. However, there is a line that can be crossed when planning permission is required. It may also be the case that as the business grows or changes the "facts and degree" used in the initial assessment may need to be re-visited and the line may be crossed resulting in a material change of use that requires planning permission.

5.11 The Planning Portal advice provides a useful framework, nevertheless the considerations contain a degree of subjectivity and in the first instance it will be for the Council's Enforcement Team to determine whether any line has been crossed. So it is very important that anyone considering running a business from home contacts the Planning Department.

5.12 The Planning Enforcement Team does **not** investigate the following:

- Non-planning related neighbour disputes
- Land boundary, ownership, access or covenant disputes
- The height of hedges and trees (unless a tree is protected)
- Use of or development on highways, pavements or grass verges
- Dangerous structures

5.13 Such matters are covered by other legislation, e.g. noise and bonfires = Environmental Health; dangerous structures = Building Regulations. We will advise and signpost people to the responsible body and if the matter is a Council responsibility we will pass concerns on to the relevant department.

Multi Agency working – related enforcement authorities

5.14 There may be breaches of planning control that are intertwined with other regulatory regimes and investigation and taking action may require a multi agency approach to ensure available powers are used to best effect. The Council may use its powers under the Environmental Protection Act 1990 to deal with noise nuisance alongside its planning powers.

5.15 The Government has also issued strong advice/guidance on illegal travellers encampments where joint working between the police and the local authority is important in coming to a view as to whether to take action to address:

- a) the harm that such developments can cause to local amenities and the local environment,
- b) the potential interference with the peaceful enjoyment of neighbouring property,
- c) the need to maintain public order and safety and protect health – for example, by deterring fly-tipping and criminal damage,
- d) any harm to good community relation; and
- e) that the state may enforce laws to control the use of an individual's property where that is in accordance with the general public interest.

6 Making a Planning Enforcement Allegation

6.1 The process of making an enforcement Allegation and how it will be handled by the Council is set out in Appendix 1. It is critical that the best possible information is provided by a complainant at the outset. All planning enforcement allegations about possible breaches of planning control should be made in writing by using the online reporting form, the details of which are listed in Appendix 2. Alternately planning enforcement allegations can be dealt with letter or telephone.

6.2 The Council will require as much information as possible in order to carry out its investigations and also to help keep complainants informed of what action it is taking. The information that is needed from a complainant in order for the Council to undertake an investigation includes:

- Your name, address and telephone number
- Details of the planning enforcement allegations itself including when the problems started
- The location (address) of the problem
- The name and address of the alleged contravenor, if known
- An explanation of the effect that the problem is causing
- We may also need the complainant's help to gather evidence including use of 'breach diaries'

6.3 The subject of any investigation is not told who has made a Allegation, although they can often make assumptions. However the substance of the Allegation is not confidential. In some cases it may be necessary to rely on evidence from complainants in order to take action and complainants will have to consider whether they are willing to actively assist the Council by collecting evidence and appearing as a witness at an appeal or in court. Anonymous planning enforcement allegations make it difficult for staff to ask follow up questions or update customers on the outcome of cases, therefore **anonymous planning enforcement allegations will not be accepted.**

6.4 Complainants concerned about possibly revealing their identity, or having difficulties explaining the problems affecting them, may wish to discuss the matter with their local Councillor who can then raise the issue on their behalf. Details of your Ward Councillor can be obtained from the Council's web site.

7 Prioritising Planning Enforcement Allegations

7.1 Planning enforcement allegations will be progressed as quickly and efficiently as possible. However, investigations can often be lengthy and complex, especially if formal action is required. Given this workload, coupled with available resources, it is therefore necessary to prioritise cases.

7.2 The prioritisation given to cases may change once an initial investigation has been undertaken. It is important that complainants accurately and honestly describe the impact of an alleged breach so that valuable resources are deployed efficiently and effectively.

7.3 Prioritisation of action will be taken on the basis of the following list which is for general guidance and is not exhaustive:

Priority 1 – Activity giving rise to irreversible and/or actual or likely serious harm to designated assets of the Borough in terms of heritage, ecology, archaeology and natural environment

- Unauthorised works/demolition in progress to a listed building
- Unauthorised demolition in progress to a building in a Conservation Area
- Unauthorised works in progress to a tree(s) protected by a Tree Preservation Order or trees within a Conservation Area
- Unauthorised development within land subject to nature conservation designations – SPA; SAC; Ramsar site; SSSI; NNR; SINC; LNR

- Unauthorised development affecting known archaeological sites and/or scheduled ancient monuments

Priority 2 –Building works and/or uses which are likely to require planning permission

- Unauthorised building works or uses affecting land or buildings which are not residential dwelling houses, and which as a result have the potential for more than simply local impacts

Priority 3 –Building works and/or uses, and other minor breaches of planning control

- Unauthorised building works or uses affecting dwelling houses or their associated garden land (e.g. extensions, outbuildings)
- Unauthorised walls, fences or other means of enclosure
- Unauthorised display of advertisements

Breach of planning conditions – where there is an alleged breach of condition it could be the case that it falls within either one of the 3 priorities set out above, therefore each will be categorised on its merits.

7.4 The timing of potential enforcement action can also depend on:

- Time limits for enforcement action to be taken
- Previous case history
- The availability of any witnesses and their willingness to co-operate
- Blatant disregard of the law involved in the breach or if it was a genuine misunderstanding
- Willingness of the contravener to put right the breach
- Likelihood of the offence being repeated
- The overall probable public benefit of formal action

8 Performance Indicators

8.1 Unlike with the handling of planning applications, there are currently no national performance indicators for dealing with enforcement cases. Nevertheless customers need some certainty over the service they can expect, therefore the following delivery standards to the key stages of the enforcement process, (subject to continuing review relative to resources and effectiveness):

- Acknowledge all planning enforcement allegations within **7 days** of receipt, providing details of the investigating officer assigned to the case
- Carry out site visits (when required), any planning history checks and make initial determination of whether a breach has occurred on all Priority 1 cases within **24 hours of receipt**
- Carry out site visits (when required) any planning history checks and make initial determination of whether a breach has occurred on all Priority 2 cases within **14 days of receipt**

- Carry out site visits (when required) and any planning history checks any planning history checks and make initial determination of whether a breach has occurred on Priority 3 cases within **21 days of receipt**
- ‘Action’ 80% of cases within **6 weeks of making initial determination as to whether a breach has occurred**
- Contact those involved in the planning enforcement allegations within **7 days** of action being determined

‘Action’ will be regarded as one of the following:

- a) The case is closed because the investigation identifies that no breach in planning control has occurred.
- b) The case is closed because an alleged breach of planning has been identified but then resolved by negotiation.
- c) A valid planning application or other form of application has been submitted and registered following the investigation.
- d) A breach in planning control has been identified and an application requested, but not submitted. An assessment has been made determining that it is not expedient to take formal enforcement action in this case at this time.
- e) A breach in planning control has been identified. An assessment has been made determining that it is expedient to take formal enforcement action in this case. Formal action may be in the form of notices issued or prosecution statements sent to legal.

8.2 The investigating enforcement officer will acknowledge the planning enforcement allegations and update the complainant at key points in in any investigation in accordance with the process chart at Appendix 1. Contact will normally be made via telephone or e-mail.

9 Dealing with Planning Enforcement Allegations

9.1 As enforcement can be a legally complex process, it is not possible to give an average time for dealing with a planning enforcement allegations; however in all cases where a breach of planning control has occurred, the authority will aim to reach a view as to whether further action is required within 6 weeks of receipt on 80% of cases. The time taken for a satisfactory resolution can vary considerably from one Allegation to another. However, the basic process, as set out at Appendix 1, remains the same in each case.

9.2 When a planning enforcement allegations is received it will be registered, a file created and then allocated to an officer to be investigated. All enforcement planning enforcement allegations will be acknowledged within 7 days of receipt and the complainant will be given the name and contact details of the Investigating Officer.

9.3 The Investigating Officer will firstly have to establish the facts surrounding the planning enforcement allegation. Initial desktop checks will have regard, for example, to appropriate legislation; the site’s planning history, and any relevant correspondence. Where appropriate, the officer may also contact other Council

departments such as Licensing, Environmental Health, Highways or Building Control.

- 9.4 The site of the planning enforcement allegation will be visited, if required, as stated in 8.1 above. **In the most serious Priority 1 breach cases, officers will endeavour to visit the site on the same day.** Site visits will usually be unannounced and photographs may be taken. Officers also have Powers of Entry in order to gain information relating to an alleged breach of planning control.
- 9.5 If the planning enforcement allegation involves an alleged unauthorised use of a property for instance, then officers may have to monitor it for a number of weeks to build up evidence and make their assessment. The Council does not have the resources to undertake out of normal office hours monitoring or intensive monitoring of single sites. Therefore to build up evidence the Council may also seek the assistance of the complainant to collect evidence, for example by completing a Breach Diary.
- 9.6 The owner and/or occupier may be asked to provide further information about the alleged breach. Occasionally, in serious cases it may be necessary to conduct a formal interview under caution in accordance with the provisions of the Police and Criminal Evidence Act 1984.
- 9.7 Following the conclusion of investigations, it may be decided not to take any further action because the breach is minor and is of a type likely to have been granted unconditional planning permission were a planning application to be made, or because there is actually no breach of planning control. All persons who have been involved in the Allegation will be notified of the decision and the reason for it, within 7 days of the closure decision (i.e. action) being taken. Any further or new allegations will be treated as new planning enforcement allegation and further investigations will be carried out.
- 9.8 If a breach of planning control is found and appears to be causing harm, the Council will try to talk to the person responsible in an effort to resolve the matter within a reasonable and appropriate timescale. Usually officers will write to the land owner requesting they take steps to resolve the situation within **3 weeks** but asking land owners to confirm their intentions within **14 days**. In the absence of a response within fourteen days officers will assume that land owners do not intend to resolve matters. In the absence of a reply from the land owner within the fourteen day period officers will not normally send out further reminders. Appropriate action will then be taken.
- 9.9 As part of the initial letter, the investigating Officer will explain what the person has done to breach the planning regulations and specify the steps needed for them to put it right. This will vary between different types of breaches but may include inviting a retrospective planning application. In these cases such applications would be subject to the Council's normal validation, publicity and notification procedures with adjoining occupiers. Once a valid application is submitted the enforcement case will be closed and all parties involved in the planning enforcement allegation process will be made aware of the application submission.

10 Enforcement Action

- 10.1 Once as many facts as possible surrounding the case such as ownership of the premises or land, other people who may have an interest and the alleged breach itself have been established: then where it is proportionate and necessary the Council Officers have delegated powers to instigate a range of actions.
- 10.2 Where a harmful breach is identified and a formal establishment of the facts of a breach are required then the Council will serve a [Planning Contravention Notice](#) (PCN) which is a formal request for information relating to a suspected breach of planning control. The Council will increasingly use the PCN route as it provides a formal statement of evidence that can be used in any continuing formal procedures. Failure to return a PCN by the set date and/or giving false information are **criminal offences** and in such circumstances the Council will consider taking legal action.
- 10.3 The Council then has a range of enforcement options at its disposal depending on the individual circumstances of the case and the degree of harm being created. Once a decision to take formal enforcement action has been made, parties will be notified of the decision within 5 working days.
- 10.4 Details of the different kinds of effective enforcement action are set out in the [National Planning Practice Guidance: Ensuring Effective Enforcement](#) and made possible through legislation. In Havant the scale and scope of formal enforcement activity is relatively low key. In exceptional cases Enforcement Notices have been served for example where changes of use of land create a new dwelling or other unacceptable use. In Havant the use of Breach of Conditions Notices is one of the more common types of enforcement action. The other types of action include:
- **Enforcement Notice:** The notice will specify what the breach of planning control is and the steps needed to put matters right. It also specifies a time before it comes into effect (minimum 28 days) during which time an appeal against the notice can be made. The steps of the notice will not take effect until an appeal against it is determined. Appeals can be made to the Planning Inspectorate
 - **Stop Notice:** In exceptional circumstances where a breach continues to cause serious or irreparable harm to amenity, public safety or the environment, the Council may in addition to an enforcement notice consider serving a Stop Notice
 - **Temporary Stop Notice:** This can be served without an accompanying Enforcement Notice and can halt activity for a maximum period of 28 days where there is serious harm that needs to be stopped immediately whilst further investigations take place. It usually should be followed-up with an enforcement notice
 - **Breach of Condition Notice:** Used when certain conditions placed on a planning permission have not been complied with. No right of appeal
 - **Injunction:** In only the very most serious of circumstances, where a breach is or is likely to cause irreversible damage and could not be dealt with effectively using any other method; the Council can ask a Judge for a Court Order to prevent/stop the breach

- **Planning Enforcement Order:** Where there has been deliberate concealment of a breach of planning control (for instance to overcome the time limitations for pursuing enforcement action), the Council may apply to the Magistrates' Court for a planning enforcement order
- **Listed Building and Conservation Area Enforcement:** This is undertaken under Section 38-46 of the Planning (Listed Buildings and Conservation Areas) Act 1990, with some advice provided in the [National Planning Practice Guidance](#)
- **Enforcement against specific unauthorised advertisements:** This is covered by different NPG and legislation than development/use based planning enforcement and more information is available on the [Government website](#)
- **Tree Enforcement:** Trees protected by Tree Preservation Orders and trees in Conservation Areas have separate legislative protection and enforcement procedures. Detail are available on the governments [National Planning Practice guidance: Enforcing Tree Protection offence](#)

10.5 Where any appeal is made to the Planning Inspectorate or to the courts against the various types of enforcement action, this is likely to delay any final decision, possibly for many months, until the appeal is determined. If the appeal is unsuccessful or no appeal is made, the notice takes effect and the period for compliance commences. Failure to comply with the requirements of the notice within the specified period is a **criminal offence**.

10.6 In addition to the above, other enforcement actions which the Council can use include serving a [Section 215 Notice](#) when the condition of neighbouring land or a building is adversely affecting the amenity of a public area. The consideration of action taken by the Council will have regard to the effect on the public domain, more private areas, for example rear gardens will not normally be appropriate for Section 215 action.

10.7 The Council can also **prosecute** for unauthorised works to protected trees, Listed Buildings.

10.8 The Council will use its discretion in deciding whether to prosecute in all enforcement matters. **Prosecution will normally only be pursued where it is considered there is enough evidence that there is a realistic prospect of a conviction and where it is in the public interest to do so.**

11 Comments and Review

11.1 Havant Borough Council will provide the best quality of service that resources allow, delivered in a fair and consistent manner and work to make the most effective use of limited resources. Customer suggestions are therefore welcome as to how we can make improvements to the planning enforcement process.

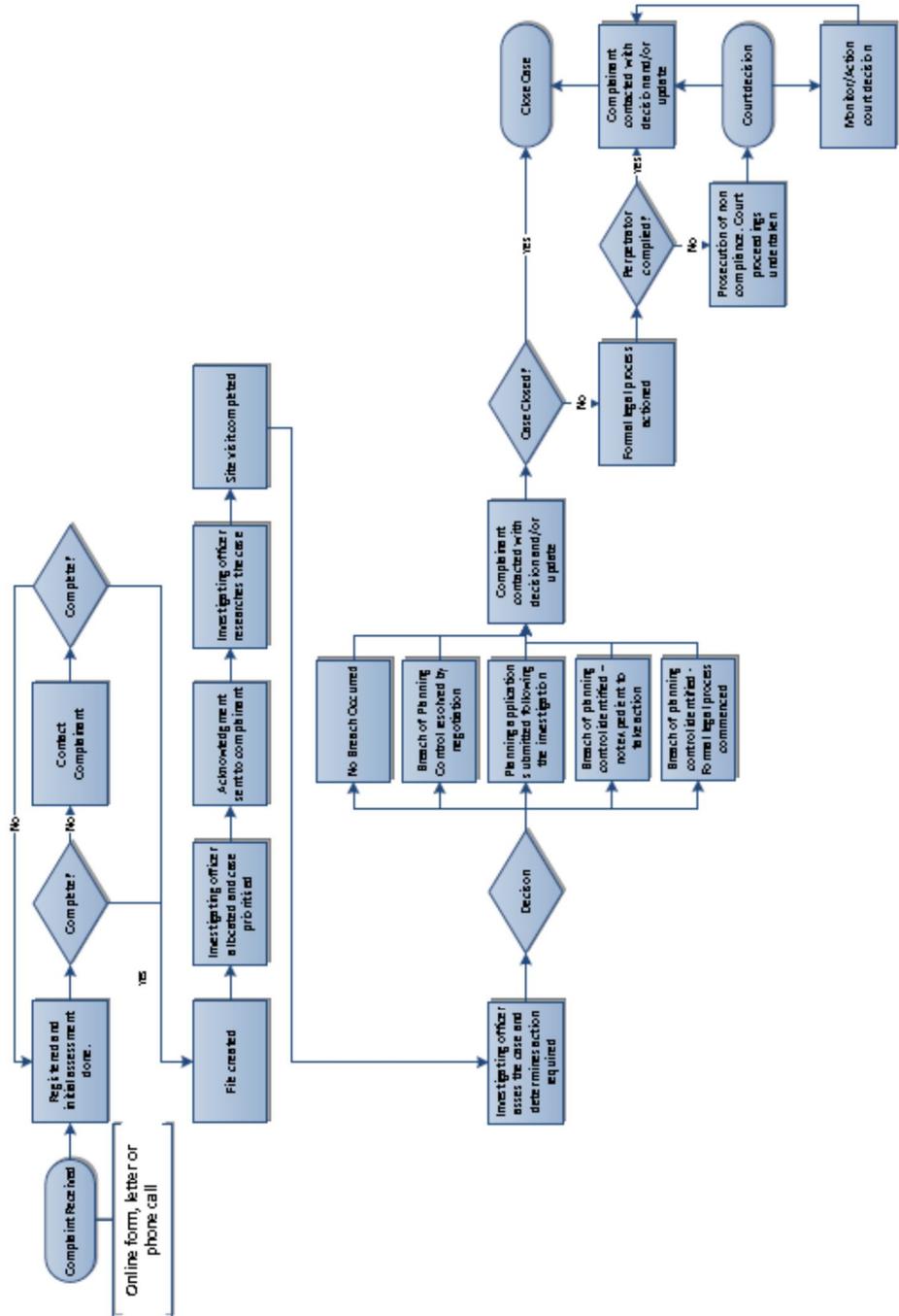
11.2 If a customer is dissatisfied with the service then formal representation through the Council's formal complaints procedure is available. If still not satisfied with our response persons may approach the Local Government Ombudsman.

11.3 In order to assist in the continuing improvement of service delivery, a review of the following elements will be undertaken (as part of the Council's Annual Monitoring Report):

- Number of enforcement cases received
- Number resulting in the issue of a formal notice
- Type of notice issued
- Number of appeals made to notices and outcome
- Number of prosecutions initiated.
- Achievement of performance standards.

11.4 Such a review will enable this plan to be refined as necessary and procedures updated in light of changing workload demands, staffing levels and legislative requirements.

Appendix 1 – Havant Enforcement Process



Appendix 2 - Useful Contact Details

Email Address: planning.development@havant.gov.uk

Email contact form: <http://www.havant.gov.uk/report-it>

Enforcement Allegation Enquiry form:

<http://www.havant.gov.uk/sites/default/files/documents/Enforcement%20Complaint%20Enquiry.pdf>

Pre-application Advice:

<http://www.havant.gov.uk/planning-development-management/pre-application-advice-and-charges>

Postal Address: Planning Services
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

Customer Services Telephone: 023 9244 6015

Useful Web Links

The National Planning Policy Guidance; gives overview of planning enforcement:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/planning-enforcement-overview/>

The Planning Portal; basic Information on Permitted Development rights & the ability to submit a planning application online:

www.planningportal.gov.uk