

Planning Enforcement

A Short Guide

The North York Moors National Park Authority's approach to checking that planning permissions are properly implemented, and breaches of planning control are addressed and how you can help.

1. Introduction

- 1.1 This short guide sets out the Authority's approach to enforcement and how to report possible breaches of planning control. A more comprehensive 'Enforcement Plan' detailing the Authority's policy approach to enforcement is [also available](#). The Authority's planning role is important to ensure that the National Park is protected from harmful development and continues to be a place of great beauty enjoyed by those who live and work here and visitors who seek out its special qualities. This planning role is only effective if properly and reasonably enforced so that planning decisions are properly reflected on what is built on the ground.

2. Key Messages

- Enforcement refers to formal (legal) action taken to seek to remedy any breaches of planning control;
- Breaches of planning control include failure to obtain permission for development¹, failure to adhere to conditions attached to any planning permission or other consent, unauthorised works to listed buildings, failure to gain consent for displaying some advertisements and unauthorised work on protected trees;
- If you are unsure of whether something needs (or has) planning permission **please ask**. Details on how to do so can be found [here](#);
- We would encourage everyone who sees what may be a breach of planning control to report it to us. Details on how to do so are set out below;
- The Authority views formal enforcement action as a last resort once other methods to remedy harmful breaches of planning control have been exhausted. We will seek to negotiate a solution wherever appropriate;
- We will take action commensurate with the scale and impact of the unauthorised development and will only take formal enforcement action if it is in the wider public interest.
- We will prioritise cases and may not take action where a breach is minor and does not materially affect the amenities of those nearby or the landscape or buildings of the National Park.

¹ As defined by [Section 55 of the 1990 Town and Country Planning Act](#).

3. How to report a possible breach of planning control

- 3.1 You can report any possible breach of planning control to the enforcement team in writing, by telephone, email, by filling out our [online form](#) or through our [online mapping system](#).
- 3.2 You should provide:
- Your name, address, email address and telephone numbers so that we can let you know what is happening with the investigation. All information provided will be treated confidentiality within the Authority's enforcement process;
 - An accurate address of the site involved, preferably including a postcode. You should try providing photographs where you feel happy to do this and locating the site on a map;
 - Clear details of what is causing you concern, including a description of the buildings works or an overview of the use;
 - Any relevant dates and times (commencement and completion, or stage of building works, or times that a use takes place);
 - If known, details of the landowner/developer's name and address and address of any other persons involved in the possible breach (such as a relevant company name, building company and/or contractor).
- 3.3 Complaints will be dealt with in confidence and your name will not be disclosed to anyone, including the person you are making the complaint about. Anonymous complaints will be recorded on file but will be investigated only where we have sufficient detailed information to identify the site and the breach of planning control. The enquiry will be assessed against our harm criteria as with all other enquiries.
- 3.4 You should only report what you consider to be breaches of planning control. The Authority cannot investigate complaints that relate to non-planning matters such as high hedges, noise/odour/light nuisance or waste disposal or fly tipping – these matters should be reported to your local District or Borough Council's Environmental Health Department ([Hambleton DC](#), [Redcar & Cleveland BC](#), [Ryedale DC](#) and [Scarborough BC](#)). Obstruction or works affecting a public highway should be referred to [North Yorkshire County Council](#) or [Redcar and Cleveland Borough Council](#) or if it concerns a public footpath or bridleway, please contact the [National Park Ranger](#) responsible for that area.

4. What happens to your enforcement enquiry?

- 4.1 We will deal with your enquiry in accordance with our standards of service and priority system:
- 4.2 We will:
- Acknowledge letters, telephone calls and emails reporting possible breaches of planning control within ten working days of receipt where the contact details of the complainant are known;
 - Investigate the planning history of the site, photographs and information from other agencies;

- Check that planning permission or other form of consent has not been granted for the development;
- Carry out site inspections in accordance with the level of harm and where this is considered necessary. Due to a high number of enquiries we will prioritise our visits according to the apparent seriousness of the problem. Our Monitoring & Enforcement Officers have specific powers² to enter land to investigate potential breaches of planning control.
- Determine whether or not a breach of control has occurred and decide on an appropriate course of action;
- Update the complainant, of the decision of our initial findings as soon as possible; contact the landowner and any interested parties if this is necessary to ensure that the breach is satisfactorily resolved.

- 4.3 Although we try to operate within these standards, it is not always possible to anticipate how a particular case will develop and the timescale for resolving a complaint can be difficult to predict. Factors that can delay progress include time taken to collect satisfactory evidence, negotiation to resolve a complaint, the submission of a retrospective application; or an appeal against a formal notice.
- 4.4 Upon receiving a notification, a desk-based assessment will be completed by officers to initially assess the apparent level of harm and alleged breach of planning control. A score is given against certain criterion. Should the assessment score meet our minimum threshold then the matter will be pursued. Below the minimum criterion no further action will be taken and the case will be closed.
- 4.5 Any action taken will need to be proportionate to the breach of planning control to which it relates. Formal action will only be taken where negotiations with the operator or landowner have failed to resolve the matter and it is considered to be in the public interest to pursue the matter. As such, some minor matters may not be pursued further. Sometimes, the personal circumstances of the person in breach of planning control may be taken into account, for example where the Authority is considering whether a prosecution is in the public interest.
- 4.6 Issues that may be taken into account when considering enforcement action include the landscape, conservation interests, public amenity, public safety and highway safety. Changes in the value of a neighbouring property, competition between businesses, the loss of a private view, or boundary disputes cannot be taken into account as these are not “material considerations” which the planning system can legitimately consider.

5. Level of action

- 5.1 There are then several courses of action available to the Authority where a clear breach of control is established. These options must be seen in the context that enforcement action is discretionary and should be exercised reasonably and proportionately in relation to the degree of harm to public interest
1. Take no further action, for instance where the breach is minor in nature and does not materially harm the amenities of adjoining occupiers or the landscape or buildings in

² Under Sections 196A, 196B and 196C of the [Town and Country Planning Act 1990](#) as amended.

the National Park (or other matters of planning interest). We will write to you explaining the reason why no further action is being taken;

2. Negotiate a solution to mitigate the impact of the development or secure its removal altogether;
3. Request a retrospective application to regularise the development where the breach can be made acceptable by amendment or the imposition of conditions;
4. Formal action to stop and/or remove the development which involves serving a notice to relevant parties which specifies what action they are required to take to correct the breach and by when.
5. Prosecution. Where formal action has failed to resolve the issue, the Authority may pursue the matter through the courts as a last resort. Advice on the Authority's approach to prosecution is set out in the separate Enforcement Plan.

Voluntary Compliance

- 5.2 The person responsible for the breach will normally receive written confirmation and an explanation of the breach. If considered appropriate, the Authority may impose a date by which to:
- Remedy the breach; and/or
 - Provide the Authority with a written proposal and/or timetable by which the breach will be remedied;
 - Submit a retrospective planning application. It is usually in the interests of the landowner to submit such an application as it will help to avoid problems when and if the property changes ownership. Further information on these different types of applications is available³. The Authority is obliged to deal with any application submitted, however where the development is clearly contrary to Authority policies and guidance it is unlikely to be approved.
- 5.3 The Authority will not allow protracted negotiations to prevent the taking of prompt and effective formal enforcement action. There are 4 and 10 year rules whereby developments cannot be pursued after these periods⁴. Additional powers exist for planning authorities to take enforcement action after the expiration of the time limits set out above where deliberate concealment has taken place⁵.
- 5.4 If land owners or occupiers consider that a breach of planning control has become immune from enforcement action they may apply for a Lawful Development Certificate (LDC)⁶. If granted, such a certificate provides documentation to establish the lawfulness of the existing development.

Use of formal powers

- 5.5 If a breach of planning control is found and it has been unable to resolve the matter without resorting to formal action the type of formal action will depend on the nature of the breach. The Authority's Enforcement Plan sets out the types of action that may be taken.

³ <https://www.gov.uk/guidance/flexible-options-for-planning-permissions>

⁴ <http://www.legislation.gov.uk/ukpga/1991/34/section/4>

⁵ <http://www.legislation.gov.uk/ukpga/2011/20/section/124/enacted>

⁶ <https://www.gov.uk/guidance/lawful-development-certificates>

- 5.6 The Authority has delegated its powers to take enforcement action to the Director of Planning. Enforcement matters will only be considered by the Planning Committee where there are conflicting views about the impact of an unauthorised development or activity or where there are significant implications for the landscape and/or built environment of the National Park or the residential amenities of adjoining occupiers.

6. Formal Complaints Procedure

- 6.1 We aim to provide an efficient and effective enforcement service. However, if you feel that we have not acted in accordance with the policy, priorities or standards of service outlined in this guide then you should initially contact the member of staff to see if the matter can be resolved. If you are still not happy with the response you can make a formal complaint through the Authority's formal 'Complaints Procedure which is available on the Authority's website⁷.
- 6.2 If, having gone through the Authority's complaints procedure, you remain dissatisfied; you may refer your complaint, sending full details, to the Local Government Ombudsman⁸.

7. Contact details

- 7.1 If you would like to notify an enforcement matter or need any further information please contact the Enforcement and Compliance Team by email on planning@northyorkmoors.org.uk. If they are not available, the Planning Administration team can help you. You can also contact us by phone on 01439 772700 or at our postal address is The Old Vicarage, Bondgate, Helmsley, York YO62 5BP.
- 7.2 More information can also be found at:

<https://www.northyorkmoors.org.uk/planning/enforcement>

⁷ <https://www.northyorkmoors.org.uk/about-us/our-service-to-you/complaints,-compliments-and-feedback/complaints-procedure>

⁸ <https://www.lgo.org.uk/make-a-complaint>