

Planning Enforcement Policy



ELLIE FRY

Corporate Director of Regeneration
& Community Service

January 2025

Contents

| | |
|---|-------------------------------------|
| 1. Introduction | 2 |
| 2. The Enforcement System | 2 |
| Objectives of the Enforcement Officers..... | 2 |
| 3. What is a breach of planning control? | 3 |
| Categories of breach | 3 |
| Types of breach | 4 |
| 4. Reporting a Breach of Planning Control | 4 |
| How we Deal with Anonymous Complaints..... | Error! Bookmark not defined. |
| How to Report Breach of Planning Control/Make an Enforcement Complaint..... | 5 |
| Information Required When Making a Complaint | 5 |
| 5. How complaints are registered | 6 |
| Triage/Prioritising Complaints..... | 6 |
| 6. How complaints are dealt with..... | 7 |
| Timescales | 8 |
| The Investigation Stage | 8 |
| Outcome 1: No Breach Present..... | 10 |
| Outcome 2: Non-Expedient Breach..... | 10 |
| Outcome 3: Expedient Breach and Positive Action..... | 11 |
| 7. Scheme of delegation..... | 11 |
| File Closure | 11 |
| Commencing enforcement action | 12 |
| Planning Committee | 12 |
| 8. Making a Complaint about the Enforcement Service..... | 12 |
| 9. Privacy Statement and Related Legislation..... | 12 |
| Freedom of Information Act 2000 (FOI) | 13 |
| Regulation of Investigatory Powers Act 2000 (RIPA) | 13 |
| Appendix 1 – Officer contact by area | Error! Bookmark not defined. |
| Appendix 2 – Certificate of Lawfulness..... | 15 |
| Appendix 3 – Enforcement Tools | 16 |
| Planning Contravention Notice (PCN)..... | 16 |
| Enforcement Notice (EN) | 16 |
| Enforcement Warning Notice (EWN)..... | 17 |
| Breach of Condition Notice (BCN) | 17 |
| Section 215 Public Amenity Notice (s215) | 17 |

1. Introduction

The purpose of the planning system is to control development and the use of land in order to protect the natural and built environment in the public interest. It is accepted that breaches under planning law will inevitably occur. The Council has two dedicated Enforcement Officers within the Development Management Team, who are responsible for investigating breaches of planning in accordance with this adopted Planning Enforcement Policy.

All reported breaches are investigated. However planning enforcement can be a lengthy and complex process. Further, the use of enforcement powers is discretionary. The Council may decide taking enforcement action is not expedient (justified) or not possible. This can concern members of public affected by a breach, who may expect swift and formal action.

This document aims to set out the enforcement service and to provide guidance on how the Council assesses and resolve breaches of planning. It sets out what members of the public can expect from the planning enforcement service provided by Blaenau Gwent County Borough Council. It should be read in association with Welsh Government advice as set out in Section 14 (Enforcement) of the Development Management Manual (Rev. 2, May 2017).

2. The Enforcement System

The planning enforcement system provides Local Planning Authorities (LPA's) a mechanism by which to assess unauthorised development and remedy the breach by a number of routes explained in this policy. It is the responsibility of the Enforcement Officers to ensure that local and national planning policies and other legislative requirements are applied through effective enforcement. However effective enforcement does not necessarily mean formal action, as negotiation can often achieve satisfactory compliance.

The primary legislation within which the enforcement system operates is the Town and Country Planning Act 1990 (as amended), the Planning (Wales) Act 2015 and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Welsh Government advice and guidance for planning enforcement is set out in Section 14 of the Development Management (DM) manual and Welsh Office Circular 24/97 (Enforcing Planning Control). The Development Management Manual sets out what 'enforcement tools' are available and provides guidance on how they should be applied. Circular 24/97 is to be incorporated into Section 14 Annex (Enforcement Tools) of the manual.

Objectives of the Enforcement Officers

With the above in mind, the role of the Enforcement Officers is:

- To investigate all alleged breaches of planning and to establish whether a breach has occurred as defined in the relevant legislation
- To work with Planning Officers in assessing the impact of a breach on matters such as amenity and highway safety, and whether it would otherwise accord with national and local planning policy

- To remedy any unacceptable development or impact on amenity through negotiation and appropriate enforcement

3. What is a breach of planning control?

It is recognised that unauthorised development will occur and there are many ways in which a breach of planning can be triggered; but a breach normally occurs for two main reasons:

- The undertaking of building works, engineering operations or the material change of use of a building or land without the necessary planning permission

Or;

- Planning permission has been granted but the approved plans and/or attached conditions have not been complied with

However not all unauthorised development is within the control of planning enforcement. Examples of activity that cannot be enforced against under planning legislation include:

- Complaints relating to private rights of access and boundary disputes or matters relating to restrictions imposed by a covenant. These are a matter of civil law and independent legal advice should be sought from a solicitor
- Enforcement is more effective under other legislation, in which case the complaint will be passed to another agency/department as appropriate; e.g. Environmental Health
- Obstruction of any road or right of way
- Inconsiderate or nuisance on-street parking
- Party Wall Act dispute

Furthermore, development may be implemented or the use of a building or land changed without the requirement for planning permission. This may be because the works are not considered as 'development' in planning terms or that they may be 'permitted development'.

Permitted development is a deemed planning permission granted by Government that permits development and/or changes of use without the express consent of the Council. Permitted development carries its own specified limits and conditions, which if exceeded or not met means that planning permission is required. Examples of permitted development may include small scale extensions, sheds, garages and fences.

Categories of breach

Should investigations reveal that a breach has occurred, it may be considered in one of either two categories:

- **Expedient Breach** – The breach results in unacceptable harm to public amenity and/or does not accord with national and local planning policies. In such cases formal enforcement action is normally taken to remedy the breach

Or;

- **Non-expedient Breach** – Whilst there is a breach of planning, it is otherwise acceptable and would comply with national and local planning policy. In which case formal enforcement action is not justified

Types of breach

Examples of types of breaches that are normally within the control of the Local Planning Department are:

- **Unauthorised operational development** – e.g. carrying out of building works such as extensions and outbuildings that exceed permitted development limits and conditions
- **Unauthorised material change of use** – e.g. change of use of a building from a clothes shop to a takeaway
- **Development not in accordance with a planning permission granted by the Council or Planning Inspector**
- **Breach of condition** – e.g. failure to comply with the requirements of conditions attached to a planning permission
- **Unauthorised works to a listed building** – e.g. alterations to the fabric and characteristics of a listed building
- **Unauthorised development and/or demolition in a Conservation Area**
- **Unauthorised display of advertisements exceeding limits and conditions of deemed advertisement consent**
- **Public Amenity** – e.g. untidy land and/or buildings that adversely impact amenity of public space

4. Reporting a Breach of Planning Control

The Council operates a reactive approach in dealing with enforcement complaints. The majority of complaints are received from members of the public and Elected Members.

The effectiveness of the Council's enforcement service relies heavily on members of the public reporting breaches of planning control.

We will not investigate anonymous complaints other than in exceptional cases.

Members of the public often express concern at leaving their contact details with the enforcement team upon making a complaint. This may be due to fear of reprisals or exacerbating existing neighbour disputes, should their identity as complainant be disclosed.

However planning complaint files are not public documents. All complainants' details remain confidential and are not revealed or made publicly available (see Section 9; page 12 'Privacy Statement').

How to Report Breach of Planning Control/Make an Enforcement Complaint

Enforcement complaints and alleged breaches of planning control can be made by the following methods, (online is the preferred method):-

- Email: _____planning@blaenau-gwent.gov.uk
- Online: English: [Blaenau Gwent | Council Direct](#)
 Welsh: [Blaenau Gwent | Council Direct](#)
- In writing to: Service Manager – Development & Estates, The General Offices, Steelworks Road, Ebbw Vale, NP23 6DN
- Telephone: 01495 364847
- Via your local Ward Councillor

Information Required When Making a Complaint

Accurate and detailed information provided from the start will facilitate a thorough and timely investigation.

When possible, we will provide the complainant with updates; e.g. whether a breach is present and notification of file closure. It is for this reason that the Council encourage complainants to leave their contact details and not remain anonymous.

When making a complaint the complainant is encouraged to provide the following details:

- Name and contact details
- Address/site details of the alleged breach
- Nature of the complaint/alleged breach
- Other supporting information that it is felt may assist the investigation. This could include photographs, plans, sketches or diary evidence (dates, times and hours of operation)

- It can be useful if the complainant is able to provide details of the person(s) responsible for the breach if known
- Date of breach

5. How complaints are registered

Triage/Prioritising Complaints

The Council has a relatively small enforcement team, which can become quickly overstretched; particularly during holiday periods, which may affect performance standards. All complaints received are prioritised at the registration stage. Therefore all complaints of planning control will be prioritised following a 'Triage' process by a Compliance Officer.

Complaints will be prioritised having regard to the nature and impact of any actual or potential harm being caused on a case-by-case basis. This approach aims to ensure a more efficient delivery of the enforcement service by earlier targeting and investigation of the most severe breaches of planning control and better allocation of resources.

PRIORITY 1: (HIGH PRIORITY CASES)

Where it is considered a complaint has a likelihood of immediate significant harm being caused to the natural and/or built environment and urgent action might be required to prevent further harm being caused, then such complaints will be registered as Priority 1.

Priority 1 cases will be registered within 1 working day with an initial site visit taking place as soon as possible but in all cases within 3 working days of the complaint being received.

Enforcement complaints allocated as Priority 1 are likely to be breaches of planning control such as:

- Unauthorised works to a Listed Building
- Unauthorised works in sites of importance/statutory designation
- Unauthorised works within a Conservation Area
- Unauthorised works that are likely to be causing a severe disturbance to neighbours or posing a significant threat to public safety
- Unauthorised works that involve large scale engineering operations
- The display of unauthorised advertisements that may be causing harm to highway safety

PRIORITY 2: (MEDIUM PRIORITY CASES)

Where it is considered that a complaint has a likelihood of harm to the environment or public amenity, but is outside the scope of priority 1, then these complaints will be registered as Priority 2.

Priority 2 cases will be registered within 3 working days and an initial site visit carried out within 21 working days of the complaint being received.

Enforcement complaints allocated as Priority 2 cases are likely to be breaches of planning control such as:

- Unauthorised building works or uses of land that are likely to be causing harm to the amenity of neighbours
- Unauthorised building works and some changes of use (such as a business in a residential area)
- Breaches of conditions attached to planning permissions
- The display of unauthorised advertisements that may be harming visual amenity

PRIORITY 3: (LOW PRIORITY CASES)

Where it is considered a complaint is causing less harm to the environment and public amenity or result in a breach that is unlikely to warrant formal enforcement action then it will be registered as a Priority 3 complaint.

Priority 3 cases will be registered within 5 working days and an initial site visit being carried out within 28 working days of the complaint being received.

Enforcement complaints allocated as Priority 3 cases are likely to be breaches of planning control such as:

- Small scale or minor unauthorised householder works
- Unauthorised display of advertisements that may be causing insignificant visual harm or does not prejudice highway safety
- Change of use (residential within a residential area)

6. How complaints are dealt with

Once a planning complaint has been registered and prioritised the area Enforcement Officer will conduct the investigation. The enforcement service requires that a consistent and methodical process is applied and comprises of an investigation stage and three possible outcomes, which are outlined below.

Timescales

Welsh Government Planning Policy Framework stipulates that the complainant should be notified in writing of the outcome of an investigation within 84 days (12 weeks) of making a complaint.

However this is only notification of what the investigation has found and (if a breach is present), the Council's intended course of action. The outcome of an investigation is not necessarily the point at which a breach is removed or the investigation closed. The below flow chart provides a basic outline of the investigation process.

The Investigation Stage

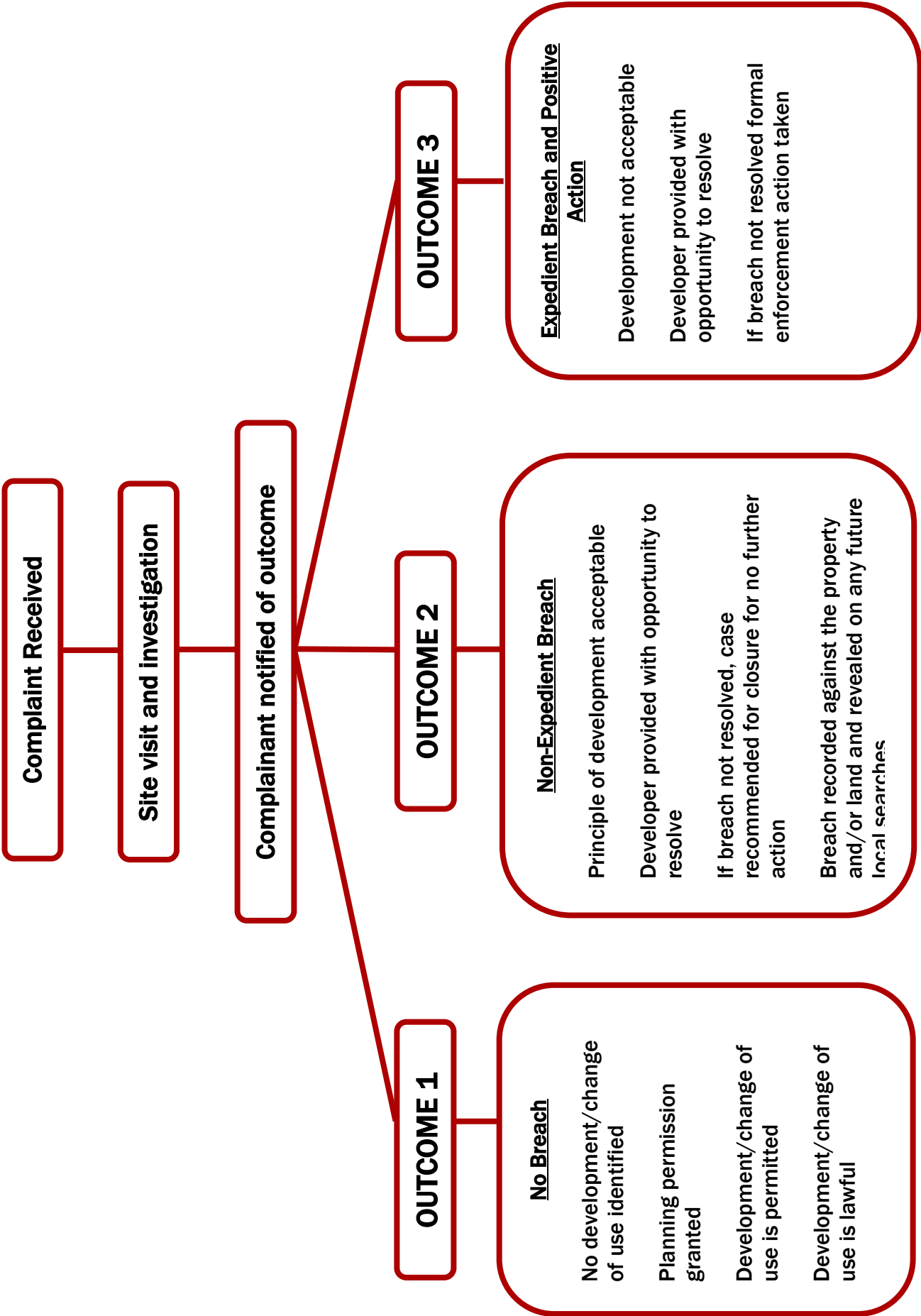
This primarily involves evidence gathering to establish if a breach of planning has occurred and normally begins with an initial site visit. The time between receiving a complaint and making the initial site visit will depend on the nature of the alleged breach and its prioritisation.

In some cases, a monitoring period may be required to gather sufficient evidence to demonstrate whether a breach has occurred or not. This is often required when investigating complaints of alleged unauthorised changes of use. A common example is for commercial car repairs at a residential property.

There is no fixed time limit for monitoring and it is applied on a case-by-case basis. As part of evidence gathering, the investigating officer will carry out a detailed planning history search and (if required) utilise other resources. These may include (but are not limited to):

- Online resources – Social media, auction websites, Government websites, etc.
- Other Council Departments – Env. Health, Highways Authority, Social Services, etc.
- Other agencies – CADW, Natural Resources Wales, UK Land Registry, etc.

Once all relevant information is collated, the decision will be made whether a breach has occurred based on relevant legislation.



Complaint Received

Site visit and investigation

Complainant notified of outcome

OUTCOME 1

No Breach

- No development/change of use identified
- Planning permission granted
- Development/change of use is permitted
- Development/change of use is lawful

OUTCOME 2

Non-Expedient Breach

- Principle of development acceptable
- Developer provided with opportunity to resolve
- If breach not resolved, case recommended for closure for no further action
- Breach recorded against the property and/or land and revealed on any future local searches

OUTCOME 3

Expedient Breach and Positive Action

- Development not acceptable
- Developer provided with opportunity to resolve
- If breach not resolved formal enforcement action taken

Outcome 1: No Breach Present

If no breach has been found, planning permission has already been granted or there is insufficient evidence to demonstrate that a breach has occurred, the file will be closed on this basis and the complainant notified accordingly.

It may be that development has been carried out or a change of use implemented that is within the limits of the relevant permitted development regulations (Section 3; page 3 'What is a breach of Planning Control?').

Alternatively, a Lawful Development Certificate may have been granted or evidence may suggest that the unauthorised development has gained immunity from planning enforcement action by virtue of the passage of time (see Appendix 2; page 15 – Certificate of Lawfulness).

Outcome 2: Non-Expedient Breach

Should unauthorised development be established, the Council will consider the breach in terms of its scale, nature, impact on amenity and whether it would otherwise accord with national and local planning policy, in determining the expediency (necessity) of any formal enforcement action.

If the breach is considered not to have detrimental impact on public amenity and would otherwise comply with planning policy, formal enforcement action is not necessary. Such breaches are referred to as 'non-expedient breaches'.

This is on the basis that the principle of development is acceptable in planning terms and to take enforcement action when not expedient would likely result in the Council losing any subsequent prosecution or appeal and could result in an award of costs being made against it.

The development will remain unauthorised nonetheless, in which case the option will be provided to the developer to submit a retrospective planning application within 28 days. Should no application be received and the breach not resolved the file will be recommended for closure by the Enforcement Officer. The non-expedient breach will be recorded and revealed on any future search of the property/land until such time as either:

- The breach is removed
- The breach is regularised by the grant of planning permission

Or,

- The development is altered to accord with the relevant permitted development limits, which would remove the requirement for planning permission

Should the landowner wish to dispose of their interest in the property or land at a later date, having a breach recorded against the property or land can cause delays during conveyancing and affect any future sales.

It is accepted that in such instances the complainant may not agree with this decision and may request a further explanation from the case officer. Should the complainant

feel that they have not been provided with a satisfactory answer, they may raise the matter via the complaints procedure outlined in (Section 8; page12 'Making a Complaint about the Enforcement Service').

Outcome 3: Expedient Breach and Positive Action

Should it be considered that the breach presents unacceptable harm to public amenity and/or would not accord with planning policy then formal enforcement action may be necessary. Such breaches are referred to as 'expedient breaches'. In line with Welsh Government's Planning Performance Framework, the Council will seek to resolve the breach through one of the following 'positive actions':

- Informal negotiations with the developer to remove the breach
- Granting planning permission for the development subject to appropriate condition(s) that overcome the harm
- An enforcement notice or other appropriate notice is issued. Further details of the enforcement tools available to the Council are outlined in Appendix 3
- Prosecution and Court Action
- Direct action taken by the Council to remove the breach

Should the breach be resolved either through negotiations, the grant of planning permission, approved by the Planning Inspectorate at appeal or removed by direct action, the complainant will be notified and the file closed. However for other expedient breaches resolution may only be achieved through compliance with an enforcement notice.

Investigations involving expedient breaches may take a considerable time to reach final closure, depending on the complexity of the breach and if the developer exercises their right to appeal or chooses to escalate the matter to the Courts. Nonetheless the Council aims to achieve a resolution in as timely a manner as possible and will notify the complainant when the file is closed.

7. Scheme of delegation

File Closure

The Council's adopted scheme of delegation provides delegated authority to the Enforcement Officer (for cases where no breach), Planning Team Leaders, the Team Manager and the Service Manager to close an enforcement file. Cases where there is no breach identified can be closed by the Enforcement Officer. Accordingly, once the investigation has reached its conclusion, the case officer will recommend the file for closure.

For investigations within 'outcome 1', the Enforcement Officer will close the case down.

For investigations within 'outcome 2', the recommendation may either be made to an officer (as outlined above) or for cases of wider public interest, the recommendation may be put before the Planning Committee for Members' consideration. In such circumstances the decision of the Planning Committee will be taken; either to close the file or to defer the matter for further investigation.

Commencing enforcement action

Should investigations reveal unacceptable development, formal enforcement action may be taken to resolve the breach. However, cases of wider interest may first be presented to Planning Committee, with the officer recommendation to commence formal action. The decision of the Planning Committee will then be taken on whether to proceed with enforcement action or to defer the matter for further negotiation/investigation.

Planning Committee

Unlike planning files, enforcement investigations are not public documents and their details are treated in strict confidence (refer to Section 9; page 12 'Privacy Statement').

For this reason, members of public are excluded from committee debate relating to planning enforcement investigations. Therefore, members of the public do not have an opportunity to make any representation at Planning Committee with respect to enforcement cases.

8. Making a Complaint about the Enforcement Service

The Council endeavours to provide an enforcement service that is both effective and value for money, which resolves breaches of planning in accordance with this policy document and national guidance. However it is accepted that there may be instances whereby a person may feel dissatisfied with the quality of service or outcome of the investigation.

Should a person have concerns relating to the delivery of the enforcement service they should in the first instance contact the case officer for their case. If the complainant is not satisfied with the response, they should contact:

- Team Manager – Development Management
Tel: 01495 364847
Email: planning@blaenau-gwent.gov.uk

9. Privacy Statement and Related Legislation

This section provides a brief outline of how information contained within a planning enforcement file is treated as per the requirements of the relevant legislation. More general guidance on how the Council obtains, holds, uses and discloses information can be found at the following links:

English: [Privacy Notice | Blaenau Gwent CBC](#)
Cymaraeg: [Hysbysiad Preifatrwydd | Blaenau Gwent CBC](#)

Freedom of Information Act 2000 (FOI)

The Freedom of Information Act 2000 provides a general right of access to information held by Public Authorities. The Local Planning Authority holds extensive information relating to planning applications and appeals. There is a presumption in favour of disclosure of such information to promote accountability and transparency in the planning process.

However details relating to enforcement investigations will be treated in the strictest confidence and are exempt from disclosure under Part II of the Freedom of Information Act. Therefore, where the Council does refuse a request, a Refusal Notice will be provided if requested, which will set out the reasons for the exemption being applied and the process of appeal should the requester believe that an error has been made.

Regulation of Investigatory Powers Act 2000 (RIPA)

The Regulation of Investigatory Powers Act 2000 (RIPA) provides local authorities with the ability to carry out investigations in a covert manner; i.e. acquiring information about someone or a business without the person's knowledge.

However, this Council's approach is that planning enforcement investigations are overt. Investigations begin with initial contact being made with the developer, landowner, proprietor, tenant and any other interested parties in the land or building against which the complaint is made and are made fully aware of the investigation. For this reason, planning enforcement investigations are not subject to RIPA.

The Planning Department endeavours to contact all interested parties' and may use other resources to assist with establishing contact details. Other resources may include other Council Departments, UK Land Registry or information requested of someone directly by issue of a Planning Contravention Notice (PCN) (see Appendix 3; page 16 – Enforcement Tools).

In some cases a period of monitoring may be required, which is a normal part of the evidence gathering process in determining whether or not a breach has occurred. Monitoring is considered on a case-by-case basis and can include both site visits and monitoring of online resources; online auction sites and social media for example. Should monitoring be required, the case officer will normally discuss this with the respective developer, landowner, etc.

Further information regarding the Council's data protection and freedom of information policies can be found on the Council's website by following the links:

English: www.blaenau-gwent.gov.uk/en/council/data-protection-foi/

Welsh: www.blaenau-gwent.gov.uk/cy/cyngor/diogelu-data-a-rhyddid-gwybodaeth/

Appendix 1 – Enforcement Officer Contact Information

Paul Samuel
Planning Enforcement Officer
Tel: 01495 369665
Email: paul.samuel@blaenau-gwent.gov.uk

Appendix 2 – Certificate of Lawfulness

Enforcement investigations can sometimes reveal unauthorised development or an unauthorised change of use, which may be claimed by the developer/landowner to have been in place continually for a significant period of time. For example, an unauthorised garage that was constructed a number of years ago.

Section 191 of the Town and Country Planning Act 1990 enables a person to apply to the Council for a Lawful Development Certificate (LDC), in order to regularise existing unauthorised development, a breach of planning control, unauthorised change of use or other operations.

The issue of an LDC is not the grant of planning permission but certifies development as lawful for the purposes of planning and thereby grants immunity from any further planning enforcement action being brought against the development.

Such certification may assist potential buyers or their legal representatives during conveyancing, should that person wish to dispose of their interest in the land or building at a later date.

However, the Council will require supporting evidence to be submitted along with the application, demonstrating that the unauthorised development has been in place continually for the relevant period and therefore benefits from immunity. The time for immunity can vary depending on the type of development/change of use:

- Operational development (buildings, extensions, decking, etc.) – 4 years
- Change of use of a building to a single dwellinghouse (excluding flats and HMO's) – 4 years
- Any other change of use or operation – 10 years

The responsibility rests firmly with the applicant to provide such evidence, which could include date/time stamped photographs and/or video footage, invoices, receipts, tax records and witness statements. The Council may require witness statements to be supported by an affidavit.

Should investigations reveal foul-play and unauthorised development has been concealed in order to avoid planning permission, the time for immunity does not apply.

Should an applicant disagree with the Council's decision to refuse the issue of an LDC, an appeal may be registered within the specified time limit to Welsh Government.

Appendix 3 – Enforcement Tools

The decision to commence formal enforcement is not taken lightly. Informal negotiations are explored in the first instance with the aim of reaching an amicable resolution. However, on occasions enforcement action must be taken. This must be reasonable and proportionate to the nature of the breach having due regard to the potential impact on human rights of the affected parties weighed against harm to public amenity and wider public interest.

This section provides a short description of the legislative tools most commonly used by the Council in addressing unauthorised development and changes of use. This list is not exhaustive and merely provides an outline of the most frequently used planning enforcement powers. Recent additions to enforcement powers introduced in 2015 are outlined in the Development Management Manual (Version 2 May 2017) Section 14 Annex: Enforcement Tools.

Website: <https://gov.wales/development-management-manual>

Guidance on existing enforcement is provided in Welsh Office Circular 24/97 'Enforcing Planning Control: Legislative Provisions and Procedural Requirements', which is to be incorporated into the Development Management Manual in due course.

Planning Contravention Notice (PCN)

A Planning Contravention Notice (PCN) enables the Local Planning Authority to gather detailed information as part of an investigation into a breach of planning. The Council is permitted to request any information that it deems relevant to an investigation and can be a precursor to the issue of an Enforcement Notice. The information obtained by a PCN is used to establish land ownership/interest and inform the type of Notice served and its requirements.

Whilst those persons on which a PCN are served are provided with an opportunity to make representation, there is no option to appeal against the serving of a PCN. The recipient has 21 days to respond and failure to comply or provide false and/or misleading information is an offence against which prosecution may be brought. The maximum fine for failing to comply with a PCN is £1000.

Enforcement Notice (EN)

On occasions where the Council considers it expedient to commence formal enforcement action, an Enforcement Notice (EN) may be served. An Enforcement Notice may allege unauthorised operational development, a breach of condition or a material change of use of land and/or buildings. The Notice must specify the time at which the notice takes effect, what steps are required to remedy the breach and a time limit by which to comply.

Those persons on which an Enforcement Notice is served are provided with an opportunity to appeal to the Planning Inspectorate Service (PINS). A valid appeal must be made before the date on which the Notice takes effect; normally within 28 days of service. This must be made on planning or legal grounds.

Once a Notice comes into effect the clock starts for the time for compliance. This can vary greatly depending on the scale and complexity of the breach and the nature of remediation works required. Failure to comply with a Notice is a criminal offence that can lead to prosecution and a fine of up to £20,000.

Enforcement Warning Notice (EWN)

An Enforcement Warning Notice (EWN) may be used where the Local Planning Authority considers that a breach of planning could potentially be made acceptable with control. It is intended to send a clear signal to the developer that without planning control, enforcement action may be taken.

The service of an EWN constitutes formal enforcement action being taken and ‘stops the clock’ in terms of any unauthorised development potentially gaining immunity by virtue of the passage of time.

Whilst there is no right of appeal against the service of an EWN, the applicant will have the opportunity to appeal any refusal of planning permission or subsequent service of an Enforcement Notice.

Breach of Condition Notice (BCN)

The Breach of Condition Notice (BCN) is intended as an alternative to the service of a full Enforcement Notice where there has been failure to comply with any planning condition or limitation attached to a planning permission. The BCN must outline the steps required to comply with the requirements of the condition, as specified in the Notice.

There is no right of appeal against the serving of a BCN (although the validity of the Notice may be challenged in the Courts). For this reason, the Local Planning Authority may wish to serve a BCN alongside an Enforcement Notice, if it is felt that the impact of the breach is so severe that the breach must be stopped quickly and before any appeal against an Enforcement Notice is determined.

Failure to comply with a BCN is a criminal offence that can lead to prosecution in the Courts and a fine of up to £2000.

Section 215 Public Amenity Notice (s215)

A Section 215 Notice (s215) enables the Local Planning Authority in some circumstances to take enforcement action requiring land to be cleaned up or the exterior of buildings to be maintained or repaired when its condition adversely affects the amenity of the area. A s215 Notice must set out the harm caused to amenity, the steps required to resolve the harm and a time for compliance.

There is a right of appeal against the service of a s215 Notice. Failure to comply with requirements of a s215 Notice is a criminal offence that can lead to prosecution and a fine of up to £1000. The offender may also be liable to pay the Council’s reasonable costs.

Local Planning Authorities have the powers under s215 to undertake the necessary works themselves and then to recover any costs incurred from the landowner. However, if this is not possible, the Council will be left with the burden of costs for the remediation works.