



Development Management Local Monitoring & Enforcement Plan



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1. Introduction

1.1 This Local Monitoring and Enforcement Plan sets out the way that Suffolk County Council as Mineral, Waste and County Planning Authority will deal with site monitoring planning and enforcement issues in accordance with the National Planning Policy Framework (NPPF). It replaces the previous version, dated January 2016.

1.2 What constitutes a breach of planning control is defined in section 171A of the Town & Country Planning Act 1990 as:

- The carrying out of development without the required planning permission, or
- Failing to comply with any condition or limitation subject to which planning permission has been granted

1.3 National Planning Policy Framework states:

"Effective enforcement is important to maintain 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. They 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 appropriate."

[National Planning Policy Framework, July 2021, Paragraph 59](#)

1.4 Current Planning Practice Guidance states that effective enforcement is important to:

Tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area;

Maintain the integrity of the decision-making process, and

Help ensure that public acceptance of the decision-making process is maintained.

1.5 Planning Practice Guidance also states that the preparation and adoption of local enforcement plans is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; and
- provides greater certainty for all parties engaged in the development process.

[Planning Practice Guidance, Enforcement and post-permission matters, Paragraph 006, ref: 17b-006-20140306](#)

2. The County Council's Monitoring and Enforcement Function

- 2.1 The County Council is responsible for determining planning applications for mineral and waste development (known as County Matters¹) and for its own development (Regulation 3²), such as new schools, fire stations, roads etc.
- 2.2 For operational minerals and waste sites with planning permission granted by the County Council, routine monitoring is undertaken to ensure compliance with conditions imposed as part of such permissions.
- 2.3 Where there are breaches of planning control from unauthorised minerals or waste development or from non-compliance with planning conditions, the County Council has discretionary powers to take enforcement action as appropriate within the powers provided through regulations. For waste-related development, the waste use needs to be the primary or only function for the County Council to take any action as the Waste Planning Authority.
- 2.4 The County Council's enforcement powers are contained within the Town and Country Planning Act 1990 (as amended). As noted above, these powers are discretionary rather than as a duty to take enforcement action where it appears to the County Council that it is expedient to do so, having regard to the provisions of the development plan, to any other material considerations and to the public interest.
- 2.5 The enforcement powers available to the County Council are set out in Appendix 1. These powers must be exercised in a manner that is proportionate to the breach of planning control that has occurred. Those that have breached planning control are expected to remedy the situation, which might be through the submission of a retrospective planning application that, if approved, could then control the development through suitable conditions.

¹ County Matters are defined in Schedule 1 of the Town and Country Planning Act 1990 and the Town and Country Planning (Prescription of County Matters) (England) Regulations 2003

² Local Authorities must determine planning applications for their own development on land in which they have an interest or for development by an authority jointly with another person. These are known as Regulation 3 development, procedures dealing with development undertaken by local authorities are contained in The Town and Country Planning General Regulations 1992

3. General Enforcement Considerations

- 3.1 It is not, in itself, an offence to carry out development without first obtaining planning permission for it. However, if formal enforcement action is subsequently taken, failure to comply with the requirements of that action may be a criminal offence and may make the person responsible for the breach liable to prosecution.
- 3.2 All enforcement action, be it verbal warnings, written warnings, formal statutory notices, or prosecution, is based on considering the risk of harm. Formal notices will only be used where negotiations with the operator or landowner have failed to resolve the matter, and it is considered to be expedient and in the public interest to pursue the matter.
- 3.3 If, however, the breach of planning control is causing significant material harm to public amenity or the breach of control took place in the full knowledge that planning permission was needed, and the person responsible for the breach will not submit a planning application, the County Council will, under those circumstances, consider taking immediate enforcement action.
- 3.4 There are statutory time limits within which enforcement action must be taken, or the breach will be immune from enforcement action, except in certain circumstances. These time limits are set out in section 171B of the Town and Country Planning Act 1990.

Harm

- 3.5 In deciding whether it is appropriate to take enforcement action, the degree of harm that the unauthorised development is causing, or is likely to cause, will be carefully considered. Harm resulting from a breach of planning control could concern environmental impact or amenity, and there might be concerns relating to highway safety. Environmental impacts might include, for example, noise and dust. Detrimental impacts on amenities could include loss of daylight or privacy but could also include the visual or noise impacts affecting the character of the area.
- 3.6 Harm does not include:
 - Competition caused to other businesses
 - Loss of an individual's view or trespass onto their land
 - Loss of value to a neighbouring property

Expediency when considering formal enforcement action

- 3.7 "Expediency" is a test that balances the advantages and disadvantages of a course of action. Formal enforcement action should be avoided where:
 - There is a trivial or technical breach of control which causes no significant 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 considers that an application is an appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

[Planning Practice Guidance, Enforcement and post-permission matters, Paragraph 011, Ref: 17b-011-20140306](#)

Proportionality

- 3.8 Where enforcement action is taken, it should be proportionate to the seriousness of the harm being caused. In resolving the breach, the action might be to control the activity through conditions imposed through the grant of planning permission. These could, for example, control:

hours of working or noise limits on an activity to make it acceptable rather than seeking to prevent the operation altogether, or

Requiring the removal of a window or insertion of obscured glazing in a building when overlooking is a problem rather than requiring the whole building to be removed.

Human Rights Act

- 3.9 The enactment of the Human Rights Act 1998 reinforces the need for openness and consistency as the decision to take or not take action may adversely affect someone's rights.
- 3.10 These rights are relevant when considering enforcement action and will be taken into account by the County Council when taking any decision on enforcement action. The County Council will seek to ensure that any action it takes is:
- 3.11 Proportionate to the breach of planning control, it seeks to address, and
- 3.12 Balances the rights of those who may be in breach of planning control with the rights of those who are affected by the breach.

4. Monitoring of Minerals and Waste Sites

- 4.1 Mineral and Waste sites often involve continuous activities over many years. Planning permissions are subject to conditions to help mitigate the environmental impacts and protect amenities.
- 4.2 Section 19 of the Waste (England and Wales) Regulations 2011 makes it a duty that where a planning authority has planning functions in relation to establishments or undertakings carrying on disposal or recovery of waste, the planning authority must ensure that appropriate periodic inspections of those establishments or undertakings are made. The County Council takes a proactive approach to monitoring existing sites.
- 4.3 The County Council charges a standard fee for the monitoring of planning conditions at mineral extraction or landfill sites. The County Council agrees on a programme of site inspections with the site operators. The frequency of visits is dependent on the circumstances, e.g., the size and nature of the site, the number and complexity of conditions attached to a permission, the stage of operations reached at a particular site and the history of compliance exhibited by the site operator over a period of time.

In practice, most active mineral extraction and landfill sites are inspected three times a year and dormant sites at least once a year.

- 4.4 Monitoring fees cannot be charged on non-landfill waste management developments. These are, however, monitored on a proactive basis, and all active non-landfill waste management sites are visited at least once a year.
- 4.5 Monitoring visits involve the checking of compliance with conditions of planning permission and any related planning obligations relevant to the site and checking that no unauthorised development is taking place.
- 4.6 Officers and operators generally work constructively together to review compliance with permissions. In this way, problems can be avoided, and formal enforcement action is less likely to be necessary.
- 4.7 Inspections of mineral extraction and landfill sites are followed up with a report to the operator prepared within 21 days of the date of the visit. The report shall detail any breaches of planning control and/or conditions of the planning permission and specify timescales for the achievement of compliance by the operator.
- 4.8 When the County Council determines applications for its own development, the responsibility for compliance with conditions of permission lies with the relevant Directorate. Planning officers undertake limited monitoring of County Council developments but will respond to any complaint that conditions are not being complied with.

5. Making a complaint

- 5.1 Anyone who believes that a breach of planning control has occurred can make a complaint. Except for urgent cases, all complaints should be made in writing. A form is available in Appendix 2, which should be emailed to planning@suffolk.gov.uk
- 5.2 The County Council is concerned with resolving serious breaches of planning control. It does not deal with neighbour or business disputes or a change to the environment that an individual or group of residents may not like. There must be significant material harm (see paragraph 3.5) to public safety, the environment or amenity for enforcement action to be justified and satisfy the test of expediency.
- 5.3 We will not deal with any anonymous complaints, so we will not register or start to deal with a complaint until we receive all the information set out in paragraph 5.4 on a fully completed complaints form.

What should be included in your complaint

- 5.4 The following information should be included (as a minimum):
 - a) Complainant's name and contact details (postal and email addresses and telephone number);

The site address or location; and

Nature of the development or activity that is causing harm, the characteristics of the harm, and when it began. A description of the nature of the harm caused to the complainant.

- 5.5 Please include as much information as you can about the activity which is causing harm and who you consider is responsible for it, attaching dated photographs and plans wherever possible.

How we will deal with complaints

- 5.6 The identity of a person making a complaint is normally kept confidential unless the County Council is required to release the information by law. However, the substance of the complaint is not confidential. If a case proceeds to formal action, and if a complainant's evidence is part of the County Council's case, anonymity cannot be guaranteed. However, we will always ask for the complainant's agreement if we need to do this. In some locations, the identity of a complainant is obvious, but the County Council will not confirm an identity unless the complainant is aware.
- 5.7 All complaints will be logged and investigated. The following procedures will take place:
- a) Acknowledgement of complaints: a complaint will be acknowledged within five working days of the County Council receiving the complaint.

An initial investigation comprises of checking of facts, including a site visit if necessary.

If no breach is found: the complainant(s) and, if necessary, the company/organisation involved will be informed within fifteen working days of the date of the acknowledgement.

If a breach is found, but it is not a County Matter or Regulation 3 Matter, the relevant District / Borough Council or the Environment Agency will be informed of the complaint within fifteen working days of the date of the acknowledgement, whilst informing the complainant(s) and, if necessary, the company/organisation involved within the same period.

If a breach is found that is a County or Regulation 3 Matter, all parties will be informed within fifteen working days of the acknowledgement, and the proposed action will be set out.

How long will it take?

- 5.8 Dealing with enforcement cases can be a lengthy and complex process. Enforcement cases vary considerably in complexity, as does the time taken for their resolution. If a person exercises a right of appeal, this may add significantly to the time taken to resolve the case. In consequence, it is not possible to give a standard time for resolving enforcement cases.
- 5.9 The investigating officer will advise you of any significant progress made as and when it occurs.
- 5.10 Repeated complaints from the same complainant will be treated as a continuation of the first complaint and will not be subject to the above response timescales unless the complaint is materially different from the original.

What are the priorities?

- 5.11 Because of the often lengthy and complex nature of planning investigations, it is necessary to give priority to those cases where the greatest harm is being caused. The following provides examples of how cases are prioritised.

5.12 Only where a case is categorised as Priority One will immediate action be initiated to address the breach of control.

a) Priority One

A serious threat of harm and/or to safety (e.g. traffic hazard, storage of hazardous substances, development creating significant pollution risking designated habitats and/or human health).

Permanent damage to the environmental or heritage assets (e.g. removal of geological asset, loss of a protected tree, unauthorised works are affecting the character of a listed building).

b) Priority Two

Building work, which is unlikely to be given planning permission without substantial modification.

Unauthorised uses that cause a severe nuisance through the noise, dust, smells, or traffic congestion.

c) Priority Three

A breach that causes problems which may be resolved by modifications to working practices or through controls attached to a planning permission (if granted).

How the County Council will Deal with a Complaint

5.13 The County Council will follow the relevant legislation in relation to the gathering of evidence and the conduct of investigations that may lead to prosecution.

5.14 Formal enforcement action may not always be expedient or proportionate, and enforcement should be considered as remedial rather than punitive. Where the County Council is the responsible local planning authority, any decision not to take enforcement action following a breach of planning control will normally be made by the Head of Planning.

5.15 Where complaints appear to be repeatedly unfounded and/or vexatious, the complaint will be directed to the County Council's formal complaints procedure for a resolution at <https://www.suffolk.gov.uk/about/make-a-complaint-or-give-feedback/>

Initial Investigation

5.16 The following actions may be undertaken:

- a) Checks will normally be made as to whether planning permission exists, whether the development has permitted development rights or if it benefits from a lawful use. When necessary, District / Borough Councils will be consulted to determine whether any locally granted permission exists;

The investigating officer will, if necessary, visit the site in question to determine whether a breach of planning control has taken place;

The complainant may be asked to complete an evidence form (Appendix 3) to enable the investigating officer to fully understand the extent and nature of the complaint and;

If necessary, a Planning Contravention Notice may be issued to require the landowner or operator of a site to provide information about activities on the land. The service of a Planning Contravention Notice is not, in itself, formal enforcement action but does require such information to be supplied.

What if someone complains about you?

- 5.17 If you are contacted about an alleged breach of planning control, you are entitled to know what the allegation is (but not who made it) and to have the opportunity to explain your side of the case.
- 5.18 If you are not involved, no action will be taken against you. If you are involved, the County Council will advise you of the details of the breach and how it can be put right.
- 5.19 Your co-operation will be sought to correct the breach, either by removing or modifying the unauthorised development or by ceasing the unauthorised work and/or activities. Unless the activity creates significant safety or environmental risk, a reasonable period of time will be allowed for you to do this.
- 5.20 In some circumstances, you may be invited to submit a retrospective planning application. Whilst some initial consideration of the merits may be made and assumptions made, such as assuming all the necessary assessments are submitted and satisfactory, planning permission might not be granted. Retrospective applications will not be invited where, in the investigating officer's opinion, there is no reasonable prospect that planning permission will be granted. However, you are still within your rights to apply for planning permission and to go through the appeals process if your application is refused. In this situation, the County Council may still take enforcement action regarding the unauthorised development/use.
- 5.21 You may be served with a 'Planning Contravention Notice' that requires information concerning the development that has been carried out and/or the activity that is being undertaken. This Notice is used to establish the facts of what has occurred so that the County Council can determine whether a breach of control has taken place and whether formal enforcement action is appropriate. The implications of not completing and returning the Planning Contravention Notice will be explained to you.
- 5.22 There are several types of enforcement action available to the County Council, as set out in Appendix 3, and further information and guidance on planning enforcement can be obtained from the Department for Levelling Up, Housing and Communities

6. Enforcement Action

- 6.1 County Council officers will, in coming to any decision as to which is the most appropriate form of action, have regard to the Monitoring and Enforcement Plan and, in particular to the following criteria:
 - a) The harm or potential harm to the public interest if the activity or operations are allowed to continue;

The history of the operator's compliance with previous formal and informal requests to cease or reduce the level of activity or take steps prescribed by the authority to remedy planning breaches;

Whether the proposed action is proportionate to the risks, such that the cost of the remedy is balanced against the effect of the work or actions;

Any previous advice, correspondence and negotiations;

The consequences of non-compliance;

The likely effectiveness of the various enforcement options, and

The availability of appropriate evidence to support the enforcement action proposed with due consideration given to the likelihood of success.

- 6.2 A file will be opened for each site with a reported incident or complaint. Local County Councillors will also be informed at an early stage about any enforcement action that is likely to be formally pursued within their Division (other than minor breaches that are likely to be resolved by negotiation).

Follow up action

- 6.3 Once formal Enforcement Action has been taken, the owner/operator can appeal this action. This can be a slow process. In acknowledgement of this, Government Guidance encourages the County Council to consider a range of measures that it can take for early resolution, such as:

- a) If the harm (see paragraph 3.5) being caused is limited, negotiation will normally be the first step in seeking to address the situation. Where a landowner or operator is willing to comply with the recommendations of the investigating officer and the investigating officer is confident that such recommendations are likely to be implemented swiftly, remedial action will be agreed to address the breach, and the investigating officer will write to all parties with details of works to be undertaken;

Retrospective planning application – In certain circumstances, it may be appropriate to invite a retrospective planning application where the investigating officer is of the view that planning permission may be granted, and such permission would enable the County Planning Authority to control the development through the imposition of conditions. A reasonable timescale will be set for an application to be made. There is, however, no guarantee that approval will be forthcoming, and;

Should the agreed action not be forthcoming within the agreed timescale, the County Council may then decide to take formal enforcement action to remedy the breach. See Appendix A

Complaints about the Service

- 6.4 If you are concerned that relevant procedures have not been followed, you should contact the Head of Planning in the first instance. Formal complaints will be handled in accordance with the County Council's Complaints Procedure, details of which can be found at: <https://www.suffolk.gov.uk/about/make-a-complaint-or-give-feedback/>

Appendix 1 – Powers available to the County Council in Undertaking its Enforcement Function

1. The three types of breach that may be likely to occur during development are:
 - a) Breach of conditions attached to an extant planning permission;
 - b) The carrying out of development where there is no planning permission and such a planning permission is unlikely to be granted, and;
 - c) The carrying out of development where there is no planning permission, but permission is likely to be granted retrospectively.
2. Potential breaches of planning control, as outlined above, are likely to be brought to the attention of the County Council through either routine site monitoring inspections or as a complaint from a member of the public or other third parties.
3. Enforcement procedures are intended to be remedial rather than punitive: *Tapecrow Ltd v First Secretary of State* [2006] EWCA Civ 1744
4. There are a number of measures and enforcement and regularising powers available to the County Council when it considers investigating unauthorised development and taking enforcement action. These are described in order to explain the extent of the County Council's powers and to identify which course of action is likely to be most appropriate.
5. Ongoing Review: Take no action but monitor the position in case circumstances change. Such cases might include minor breaches causing no significant material harm, those which are unlikely to create a precedent, or which may be remedied of their own accord;
 - a) Negotiation/Allow Time to Remedy: Time may be given to remedy the breach or justify its retention. Such cases may include situations where harm is easily repairable and is not so serious as to warrant immediate action or where it may be justifiable by some other benefit. However, because formal enforcement action takes some time, any informal action to resolve the breach will not be allowed to delay enforcement action unnecessarily;
 - b) Planning Contravention Notice: This can give an opportunity through the provision of more information by answers to detailed questions to formally regularise the position or to persuade the County Council that further action is inappropriate;
 - c) Enforcement Notices: These will be the normal means of remedying unacceptable development where the County Council's enquiries regarding a breach of planning control, or informal action, are met with no satisfactory response. There is a right of appeal to the Secretary of State against the Notice, which can be quashed or amended, and;
 - d) Breach of Condition Notice: These can be issued in addition or as an alternative to an enforcement notice where the unauthorised activity is in breach of a condition attached to a planning permission;
 - e) Stop Notice: The Council can issue a Stop Notice where a breach of planning control is causing serious or irreparable material harm, and more immediate action is justified despite the cost of depriving a developer of the benefit of development;
 - f) Court Injunction: This may be sought in the most serious cases where irreparable harm is being done or where other actions have failed. Significant costs are

involved in bringing such actions and can only be justified in extreme cases. Defendants risk imprisonment if they do not comply with the terms of an injunction;

- g) "Default" Powers or Direct Action: The County Council may enter the land to take the necessary steps to secure compliance when an enforcement or advert notice is given, and;
- h) Prosecution

Right to Enter Land

6. Any officer or other persons duly authorised in writing by the County Council may, at any reasonable hour, enter any land for enforcement purposes if there are reasonable grounds for doing so. The Town and Country Planning Act 1990 specifies the purposes for which entry to land may be authorised

- a) To ascertain whether there has been a breach of planning control on the land or any other land;
- b) To determine whether any of the County Council's enforcement powers should be exercised in relation to the land or any other land;
- c) To determine how such powers should be exercised in relation to that land or any other land, and;
- d) To ascertain whether there has been compliance with any requirement imposed as a result of any such power having been exercised in relation to the land or any other land.

7. It is a criminal offence to wilfully obstruct an authorised person in the exercise of their right of entry. Any person who does wilfully obstruct an authorised person may be prosecuted and, if convicted, may be liable to a fine.

Appendix 2 – Complaint form

An online version can be found at:

www.suffolk.gov.uk/planning-waste-and-environment/planning-applications/monitoring-and-enforcement-plan/



For office use only	
Reference Number	
Date	

Planning Enforcement

Reporting a suspected breach

You should complete this form if you suspect that an unauthorised activity or operation is taking or has taken place which is in breach of the planning, listed building permission.

Personal details entered onto this form will be treated as confidential and will not be published. (Fields Marked * are mandatory)

Your details					
Name *					
Address *					
				Postcode	
Telephone number		Mobile number		Email	

Details of where suspected breach is taking or has taken place	
Site location or address *	
Occupier's or Owners name and contact details if known	
Are they: <small>(please check the relevant box)</small>	<input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Occupier <input type="checkbox"/> Contractor/Work Person

Description of the suspected breach *	
Please provide if possible: <ul style="list-style-type: none"> • Date/Time of breach • Vehicle registration • Activities being undertaken 	
Other documents/photos attached	

Please return this form to: Planning Enforcement, Suffolk County Council, 5th Floor Endeavour House, 8 Russell Road, Ipswich. IP1 2BX
Or email as an attachment to: planning@suffolk.gov.uk

Appendix 3 - Evidence Form

An online version can be found at:

www.suffolk.gov.uk/planning-waste-and-environment/planning-applications/monitoring-and-enforcement-plan/

Record of Events – Site :-

Date	Time	Duration	Event Description	Impact on Household	Notes (eg vehicle reg, lights off)

Submitted By

Signed

Address

Date

Please return to jo.lloyd@suffolk.gov.uk once completed along with any accompanying photographic evidence.

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