What is a breach of Planning Control?

This section explains what constitutes a breach of planning control.

A breach of planning control consists of ‘development’ requiring planning permission and other matters requiring the formal consent of the council’s planners that have been or are being carried out without that planning permission or consent.

“Development” is defined by section 55 of the Town and Country Planning Act 1990. And is clarified by decisions of the courts. Examples include:

- The carrying out of building or engineering works or the change of use of a building or land without planning permission.
- The carrying out of development not in accordance with a planning permission which can be either failure to follow the approved plans or failure to comply with conditions attached to the permission.
- The carrying out of works (internal as well as external) to a listed building without listed building consent. The display of a sign or advertisement without advertisement consent.
- The unauthorised felling or carrying out of works to a tree which is protected by a Tree Preservation Order or which is within a conservation area. The unauthorised demolition of a building within a conservation area.
- The council’s planning department also has power to act where land has become so untidy that it harms the amenity of the surrounding area.

Most breaches of planning control are not offences. The following are exceptions:

- Unauthorised works to listed buildings.
- Displaying unauthorised advertisements.
- Carrying out unauthorised works to protected trees.
- Removal of certain hedgerows.

The process explained

Examples of activities which are not normally breaches of planning control. As a result it is unlikely that enforcement action can be taken under planning legislation include:

- The on street parking of commercial vehicles in residential areas.
- The operating of a business from home where the residential use remains the primary use and there are no staff employed there and visitors are kept to a minimum.
- The stationing of a caravan within the grounds of a dwelling provided that it is used ancillary to the dwelling (i.e. it is stored or used as an extra bedroom).
- The clearing of undergrowth, bushes and trees from land provided they are not subject to a Tree
Preservation Order and are not within a conservation area or protected by a planning condition.

Breaches of planning control often occur in respect of:

- Some changes of use, such as shops to offices or takeaways.
- Some building works.
- Unauthorised advertisements.
- The erection of fencing exceeding the permitted height or in some conservation areas.
- Alterations to listed buildings including the installation of UPVC windows.

Immunity from enforcement action arises when a building or structure has been completed for more than four years, or a change of use occurred more than ten years ago.