

Planning Enforcement





Planning Enforcement

- Statutory role defined in Section 171A the Town and Country Planning Act 1990 (as amended).
- Often referred to as the most difficult and litigious element of the planning regime.
- The Council does not have to take formal enforcement action which is DISCRETIONARY (For good reason too).
- We often work with other departments to utilise sometimes better legislation to find more agreeable solutions.



Planning Enforcement - *The Law*



- Breach of Planning Control is defined as:
 - Carrying out of development without the required planning permission.
 - Failing to comply with any condition or limitation subject to which planning permission has been granted.
 - Failing to comply with GPDO.

Planning Enforcement - *The Law*

Powers under the Planning (Listed Buildings and Conservation Areas) Act 1990 to issue enforcement notices where:

- Any works have been or are being carried out to a listed building.
- Demolition to an unlisted building in a conservation area.
- Harm, damage to a scheduled ancient monument.

Planning Enforcement - *The Law*

- Powers to prosecute where advertisements have not been erected in compliance with the Town and Country Planning (Control of Advertisements) regulations 2007.
- Specific powers to deal with:
 - Illegal hoardings.
 - Fly-posting and Graffiti (dealt with by Environmental Protection Dept).
 - Unauthorised advertisements along the highway (dealt with by Highways Authority).



Enforcement Notices

Types of Enforcement Notices

- **Planning Contravention Notice**
 - Issued where it appears there has been a breach of planning control & the Council want information on the land and its ownership.
- **Breach of Condition Notice**
 - Failure to comply with the requirement of a planning condition.
- **Enforcement Notice**
 - Issued by the Council requiring a use to cease including buildings, structures or the COU of land (but caution is required).
- **Untidy Land Notice**
 - Can issued on where the land is untidy and specifying what needs to be done to improve amenity. (*Also use Crime and Policing Act 2014 & Environmental Health Legislation*).

Types of Enforcement Notices

- **Temporary Stop Notice**
 - Can be issued before an enforcement notice to require works to cease immediately
- **Stop Notice**
 - Where the Council decides that activity on a site should cease and served with an enforcement notice
- **Discontinuance Notice**
 - For the removal of an advertisement.
 - For when development has stalled.

LPA must be cautious !

There are other tools in the enforcement toolbox including Planning Injunctions

National Stance on Enforcement

- National guidance requires Councils to negotiate where unauthorised developments have occurred to find a solution
- Issuing of any types of notices is a last resort where all negotiations has failed!

Future
changes to
Enforcement



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Future national changes to Enforcement

- *The following are suggested in the Levelling-up and Regeneration Bill:*

- Stronger enforcement powers which include:
 - Immunity against action changed from 4 years to 10 years for all cases
 - New Enforcement warning notice
 - Penalties increased for non-compliance
 - SOS given powers to dismiss enforcement appeals if applicants are deliberately delaying the process

The above may change or be replaced by new measures depending on the viewpoint of the new prime minister on Planning and Planning Enforcement!



*Meet the
Team!*



Meet the Team!



- **Donna Woods - Senior Planning Enforcement Officer**
- One of two Senior *established* Enforcement Officers.
- Worked in the role since September 2019
- Currently completing the Certificate in Planning Enforcement course
- 105 enforcement cases
- Investigates, negotiates and decides (along with the other team members) the most appropriate action to be taken.
- Reviews the team statistics on an ongoing basis.
- Helps to prepare quarterly enforcement report for Planning Committee.

Meet the Team!

- **Anne-Marie Stokes - Planning Enforcement Officer**
- One of two *established* Enforcement Officers.
- Worked in the role since September 2019.
- Recently commenced the Certificate in Planning Enforcement.
- 71 cases.



Meet the Team!

- **Darren Arnold - Planning Enforcement Officer**
- One of the two *established* Enforcement Officers.
- Worked in the role since May 2018.
- Recently commenced the Certificate in Planning Enforcement course.
- 45 cases.

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Temporary Support

- Whole team came back into Planning in 2021 from Environmental Protection.
- The established officers are temporarily supported by 3 experienced Consultant Enforcement Officers (Collectively providing 37 hours of support) these include:

- **Jim Wilmot –Enforcement Team Leader**

- Support and mentoring for established officers.

- **Richard Scott –Senior Enforcement Officer**

- Provides guidance for established officers.
- 41 long standing complex cases.

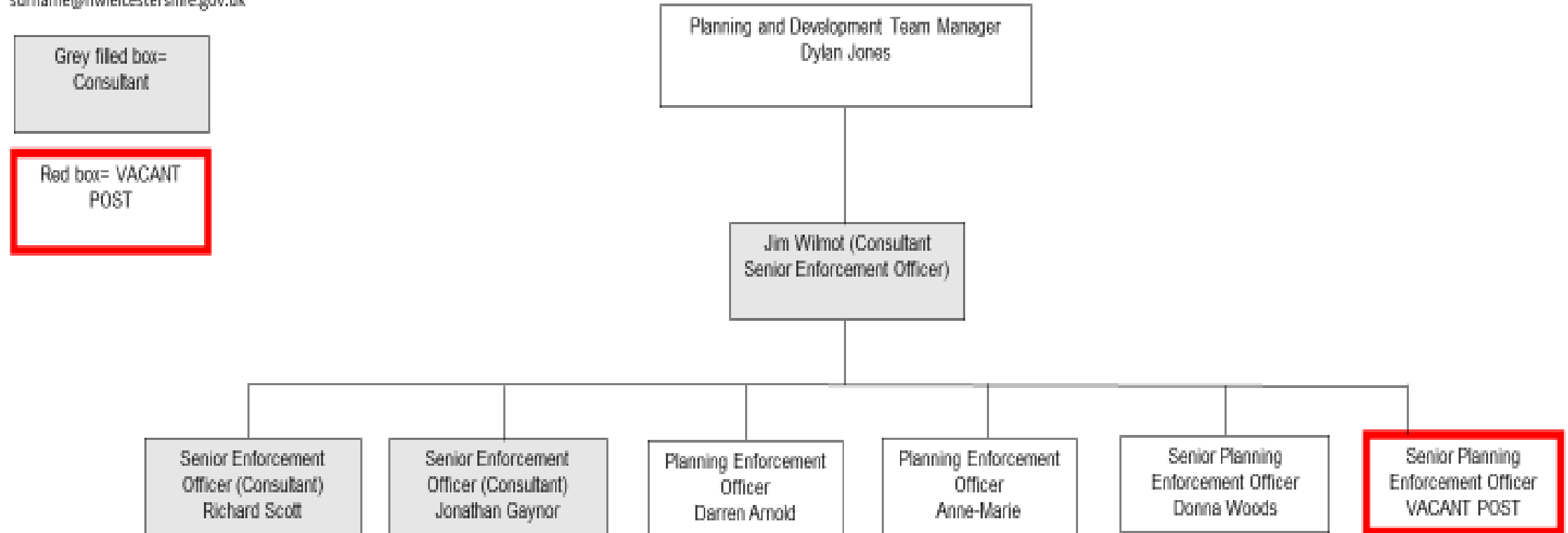
- **Jonathan Gaynor - Senior Enforcement Officer**

- 24 mixture of complex cases and more recent allegations.

Enforcement Team Structure

All telephone numbers are 01530 454
followed by the three digit telephone
numbers given below. All email
addresses are first name dot
surname@nwleicestershire.gov.uk

PLANNING ENFORCEMENT TEAM JUNE 2022





The future
for the
Team



The future for the team



- Wish to replace the vacant Senior Enforcement Officer with a Team Leader role
- This role will then:
 - Provide mentoring and guidance.
 - Officer case management and performance.
 - Negotiate and guidance on more complex cases.
- Review staffing needs.
- Planning Advisory Service reviewing processes and procedures:
 - Improve efficiency.
 - Staffing.



The future

- Two officers are currently working towards the coveted Ivy Legal Certificate in Planning Enforcement.
- Donna Woods has just successfully completed the course!
- The aim being to increase planning enforcement knowledge and procedures.

How does
the team
work?



The NPPF dictates

- The LPA should adopt a Local Enforcement Plan.
- NWLDC adopted our Planning Enforcement Policy in 2019.

The Rules


- The Council adopted a Planning Enforcement Policy (PEP) document back in 2019
- Its purpose was to:
 - Provide a clear understanding of the planning process; and
 - The policy and guidance that underpins it
- The document identifies what constitutes unauthorised development
- Introduced harm scoring as a way to prioritise how the team deals with cases
- ***This document is now due to be reviewed and will be done so over the next few months***

The aims of the Planning Enforcement Policy


- Initially consider all complaints in respect of enforcement matters (LPA & CPA)
- Investigate and seek to resolve breaches of planning control caused by unauthorised developments.
- Keep customers/complainants / members informed of case progress.
- Take the required action that is proportionate to the breach (remedial/enforcement action).
- Negotiate deadlines to achieve compliance
- Every case is judged on its own merits

The aims of the Planning Enforcement Policy

- Only invite a retrospective application to regularise where there is a reasonable prospect that permission would be granted.
- Facilitate development that conforms to local and national planning policy.
- Co-operate with other regulating authorities and agencies to resolve breaches of planning control.
- We would not normally investigate anonymous, vexatious and repetitive customer complaints unless they relate to potential criminal acts or potential harm, i.e. works to a listed building



How does the process work?

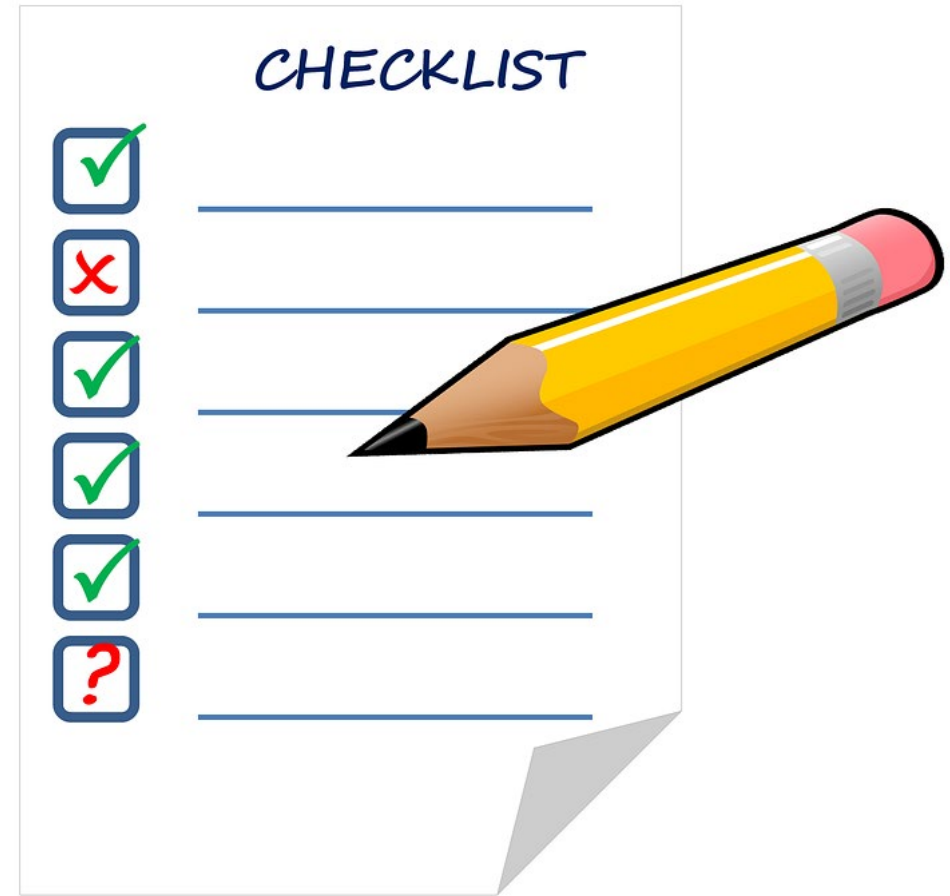


- Complaint received of an alleged breach of planning control.
- Initial investigations
- Apply the current harm scoring system

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- Cases will be investigated and scored on the following criteria:
 - Age.
 - Worsening or stable?
 - Safety or statutory nuisance concerns.
 - Who is the complainant (weighted by local member).
 - Breach of planning condition?
 - Listed Building, TPO, Conservation Area.
- Can score between 1 to 18 points.
- Anything scoring over 5 will be investigated.

Harm Scoring



Harm scoring - How does it work?

- The following will be automatically investigated:
 - Illegal works to Listed Buildings.
 - Hedge removal (historical value).
 - Works to trees covered by TPO's.
 - Demolition in a Conservation Area.



Future changes

- Review our current harm scoring system due to complexity.
- Councils have simpler systems .
- Moving forwards the team will look at a simpler Harm Scoring system using a new Traffic Light scoring system

How should
a Councillor
report a
case?



INCIDENT REPORTING

How should a Councillor report a case?

- All cases should be reported using the Member Enquiry form, found on the Members page on Sharepoint .
- Passed directly to the enforcement team who will within 10 days
 - Acknowledge receipt.
 - Advise of the Case Officer
- The case will be investigated and Councillor informed of progress and outcome.



The End

Any questions on the
content of the
presentation?