

Joint Local Planning Enforcement Plan (JLPEP) 2023

Our approach to Planning Enforcement

We place great importance on using our planning powers to protect and enhance our environment whilst making sure that development improves the economic prosperity and quality of life for all those who live, work and visit our districts.

We recognise that the integrity of, and public confidence in, our planning and enforcement process is built upon our commitment to take effective action against unauthorised development. We will therefore investigate and take proportionate action where we consider that the planning issue causes unacceptable harm to the public interest.

We have reviewed our Enforcement Plan to make it more succinct, to ensure our process is clear and accessible, so that our customers know what they can expect from us once a complaint has been made.

Our plan summarises how our planning enforcement service operates, how we normally investigate issues as well as providing practical advice and guidance to people who may be concerned that a development is proceeding without the necessary consent or is not in accordance with a consent we have already granted. It also clarifies what we will expect of you if there is a need to investigate a matter you may have an interest in.

A breach of planning control is not usually a criminal offence and may not automatically attract enforcement action. Central Government guidance in the National Planning Policy Framework (NPPF) clearly sets out that enforcement powers are discretionary. In all cases we expect that any action we take will be commensurate with the nature, scale and impact of the breach from a planning perspective. It may not, for example, be in the public interest to take action against minor technical breaches that have only a small impact. In each and every case we will aim to take action proportionate to the public interest where it is expedient to do so.

All our investigations will be carried out having proper and appropriate regard to the Human Rights Act 1998, the Equality Act 2010 – including the Public Sector Equality Duty (“PSED”) – and other relevant considerations.

What is and what is not a breach of planning control?

A breach of planning control may occur when either building works or a “change of use” of the land takes place without planning permission.

In most cases it is not an offence to undertake development without permission, but it will be an offence not to comply with an enforcement notice if one is served after our investigation.

We have various powers to remedy the breach. We can do this by requiring.

- Changes are made to the development to make it acceptable.
- The removal of the unauthorised development.
- That works to the unauthorised development should immediately cease.
- The submission of a planning application which after consideration could make the development acceptable.

Examples of actions that **are** a breach of planning control include:

- Some building works or a change of land use undertaken without planning permission.
- Not building in accordance with approved plans or a failing to comply with planning conditions which have been agreed as part of the planning approval.
- Works to a listed building without the required consent
- Removing or lopping trees protected by a Tree Preservation Order or in a Conservation Area
- Displaying an advertisement without the relevant advertisement consent

Examples of actions that **are not** a breach of planning control include:

- Operations which accord with ‘permitted development’ rules which allow certain types of works without the need to apply for planning permission
- Internal works to a building (except in the case of a listed building)
- Works which have been certified as “lawful” in the circumstances of their planning history or through evidence provided to the Council.
- The clearing of land necessary to prepare for a development. This can include clearing trees or bushes, provided they are not protected

	<ul style="list-style-type: none"> • Parking commercial vehicles on the highway • Boundary disputes between neighbours. These are civil matters and are not controlled by planning legislation. <p>If the concern raised with us is not one we are able to assist with, we will liaise with our colleagues let you know which Council team or partner authority / agency to contact – link to our webpage</p>
<p>How do I report a breach?</p>	<p>If you have good reason to believe that a breach of planning control has occurred, you should:</p> <ul style="list-style-type: none"> • Notify our Planning Enforcement Team using our on-line reporting form - Report it » Babergh Mid Suffolk • Tell us the address of the site. • Provide details about what has happened and when it occurred. • Provide the name and address of the landowner or the person responsible for carrying out the works, if these are known to you. <p>We must always keep an open mind; we may decide that further investigations are not required. If this is the case, we will tell you why.</p> <p>If you report a suspected breach, we will expect you to give us your name and contact details. We will not normally investigate anonymous complaints, unless we believe the breach falls into one of the following categories:</p> <ul style="list-style-type: none"> • Where it involves the demolition of or works to a listed building • Where trees are protected by a Tree Preservation Order or where trees are situated within a Conservation Area; and, • Where it involves the demolition of a building in a conservation area. <p>Your contact details will remain confidential. If we need to use your evidence to support our investigation and any action we think is necessary – e.g. if the matter requires prosecution, or an application for a court order – we will contact you to request your assistance as a witness. If you agree to assist, your name and address may need to be disclosed in court proceedings.</p>

What happens when a planning issue or concern has been reported?

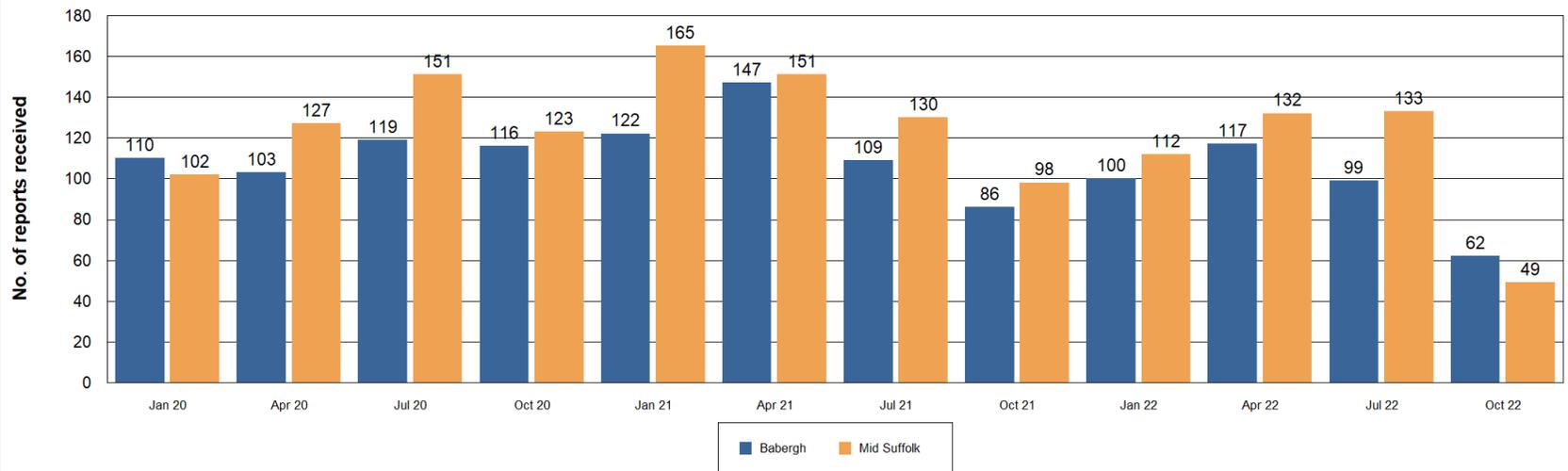
Once we have received a report of a planning issue or concern, we will screen that against our **Prioritisation strategy** (see Appendix A) and then proceed with activity following our **Investigation process map** (Appendix B). This process map is our standardised approach to investigations although we may need to tailor individual steps as we consider appropriate to a particular investigation.

If we consider that the issues reported to us could be controlled by planning conditions, we may invite a formal planning application. This will allow the issues to be considered through a retrospective planning application, for example, to retain or continue them.

We may hold our enforcement action in abeyance while a planning application or appeal is being determined, depending on the degree of harm and nature and scale of the breach. Whilst this can appear frustrating it is the proportionate approach which allows due planning process to take place.

We typically receive over 700 reports each year and to make best use of our resources we prioritise cases having regard to their planning harm or impact.

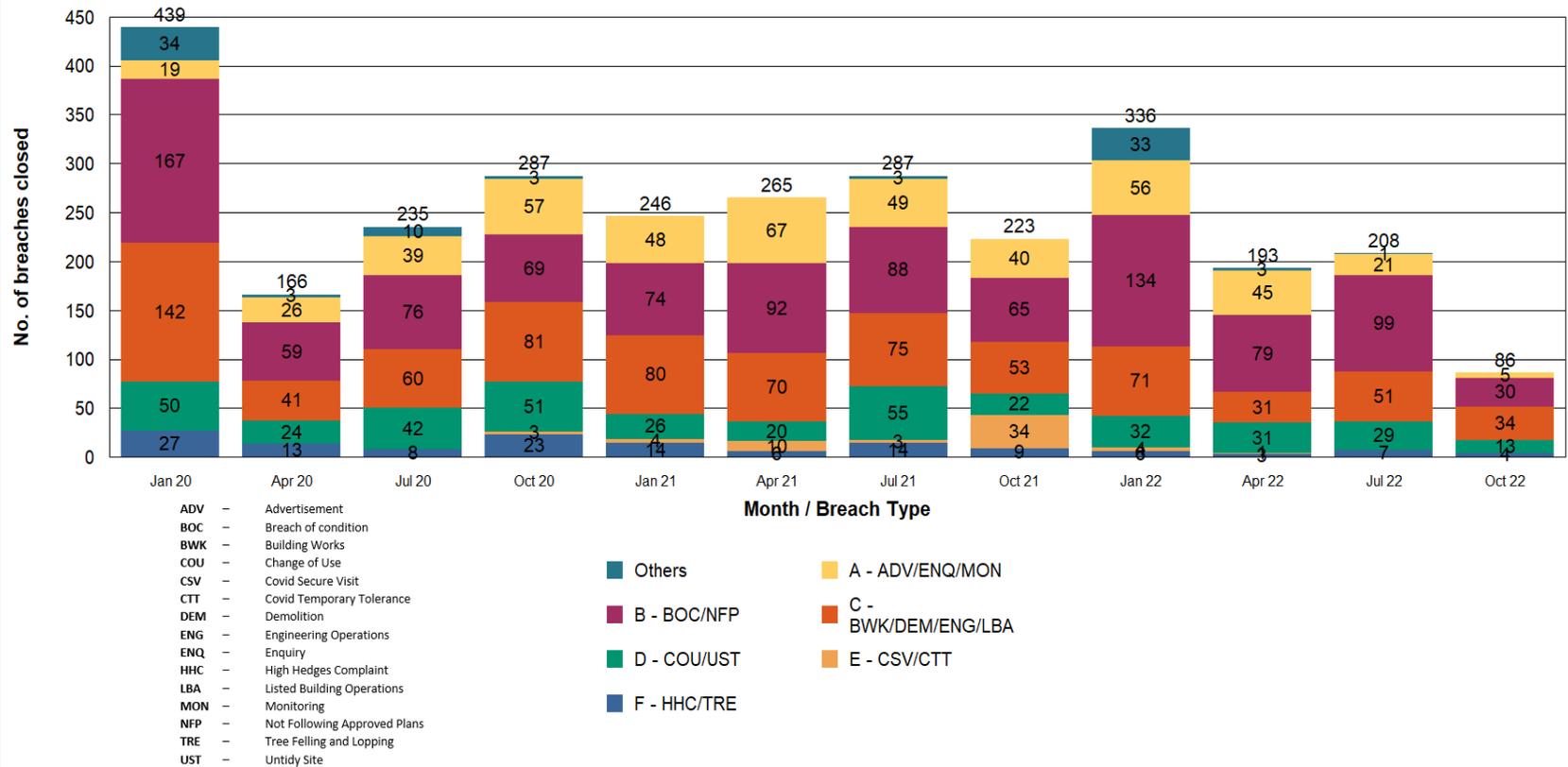
Enforcement Reports Received By Quarter - 01 Jan 20 to 31 Oct 22



If, however, our investigations reveal harmful unauthorised activity or development that we think is unacceptable in planning terms then enforcement action is most likely to be expedient to pursue. On average between 5% and 10% of cases reported to us each year result in some sort of formal planning enforcement intervention.

It is important to note that most breaches of planning control are normally resolved through negotiation with, and co-operation from, the landowner or the person responsible. This is usually an effective approach though we recognise that this might take time to conclude.

Enforcement Reports Closed By Quarter - 01 Jan 2020 to 31 Oct 2022



	<p>The speed in which a breach of enforcement issues can be resolved will vary depending on the complexity of the individual case and general workloads. Some complex cases can take a significant period of time due to the nature of the investigation process.</p> <p>During our investigation we will seek information and may do this by formal or informal means. Once we have sufficient information to reach a conclusion, we will decide whether it is expedient to take enforcement action.</p> <p>It is important to remember that planning enforcement action is not obligatory and there will be occasions when we decide there is no planning breach or that it is not expedient to take action where, for instance, a breach has little or no harmful effect upon matters of public interest. Typically, this accounts for around 40% of the cases reported to us.</p>
<p>When we can take action: the “expediency” test</p>	<p>We appreciate that when a breach of planning control occurs, the impact on people may be serious and they will expect the matter dealt to be dealt with as quickly as possible. It is important that we manage people’s expectations, some breaches will be more serious than others and so it is right we prioritise these cases over others where the harm is less serious.</p> <p>When we assess whether formal action should be taken, we must ensure that our actions are reasonable, proportionate and in the public interest. This is known as the expediency test; it means weighing up carefully the merits of each case before deciding what to do. The question, whether or not it is expedient to act, is at our discretion.</p> <p>The speed in which a breach of planning control can be resolved will vary depending on the complexity of the individual case and officer workloads. Some complex cases can take a significant period of time due to the nature of the investigation process.</p>

How we carry out our investigations

When we receive a complaint, we will acknowledge that complaint as soon as reasonably possible, and at least within 3 working days of receipt. If the report received is not a Planning matter, we will advise you accordingly.

We will also aim to achieve the following response times.

“High Priority” Investigations:

- Review the report and where necessary conduct a site visit within 3 working days of receipt
- Advise the reporter/complainant of the outcome of the review/visit within 1 working day

These investigations will include work which is irreversible or irreplaceable or works which constitute a criminal offence.

“Standard” Investigations:

- Review the report and, where necessary, conduct a site visit within 10 working days of receipt
- Advise the reporter/complainant of the outcome of the review/visit within 2 working days, along with proposed actions

These investigations will include, for example (but they are not limited to): works requiring planning permission; breaches of conditions attached to an existing planning permission; concerns relating to the condition of land or buildings; etc.

In every case, we will try to achieve the most appropriate and legally sound outcome at the earliest possible stage. It is important to note that our officers can only operate within the strict legal powers available to them.

<p>When further action is not appropriate</p>	<p>If our investigation is unable to establish sufficient evidence, on the balance of probability, to confirm that a breach has occurred, or that the breach is in our assessment so minor that it has minimal planning impact or harm, we will take no further action, and will advise the reporter/complainant accordingly, as soon as we reasonably can.</p> <p>If the Council receives an application to consider the planning merits of the matter reported, we may suspend our investigation pending the outcome of that application / appeal if we consider that expedient. In such cases it will not normally be expedient to take formal action though much depends on the detail of the case. If at the conclusion of the application / appeal, it is expedient to resume our investigation we will do so. If the application resolves the matter, we will finally close our investigation. If the planning harm caused is so serious that we consider it expedient to take formal action before the application is decided we will do so.</p> <p>If the matter reported to us is a civil issue which we believe should be resolved by the relevant parties through their solicitors or other legal representatives, we will advise as appropriate.</p>
<p>I've reported an issue, how will the Council communicate with me?</p>	<p>We will be as transparent as we reasonably can be in our dealings with the members of the public and other interested parties while preserving the confidentiality of complainants and persons under investigation. We will also balance the need for robustness in our investigation when considering what information we can share. It is important that we maintain effective working relationships with all interested parties in order to progress enforcement investigations to a satisfactory conclusion.</p> <p>We will aim to keep you reasonably updated from time to time when we are in a position to offer useful feedback but it is not practical or reasonable to provide a “running commentary” on an investigation. Given the volume of cases we investigate we recognise you may wish to provide further information subsequent to your initial report, but we will only provide updates to you once we have progressed our consideration of the planning issues. This will vary case by case (see also model workflow).</p> <p>All complainants will be advised when a case has been concluded.</p>

What enforcement action can the Council take?

Once a breach has been identified for action and we have assigned a priority to an investigation, unless circumstances require immediate action, a staged approach will always be adopted by a combination of the following, as is deemed appropriate by the investigating officer in each case. For example:

Step 1

- We will offer advice where an apparent breach can be readily resolved e.g., informal letter.
- We will seek to negotiate, allowing an opportunity for the works to stop, or land to be cleared, or buildings to be removed.
- We may invite a planning application if permission may be forthcoming, or if a minor amendment to an existing permission would be an appropriate remedy, or if the conditions attached to a permission require technical details to be provided and approved.

Step 2

- We will issue formal letters and written warnings.
- We will issue a Planning Contravention Notice to obtain more information.
- We may suggest an application for a Lawful Development Certificate, which requires information from the applicant to establish that the development is immune from enforcement action.

Step 3

- Where a breach of planning control has been identified and no action has been taken by the person responsible to address the breach, it will be necessary to consider formal action in the form of a Notice.
- Where formal action is taken then every effort will be made to explain to the recipients what is required of them, the consequences of non-compliance and the available rights of appeal.
- Where a Notice has not been complied with, this will include consideration of prosecution proceedings or direct action.

<p>What if someone has made a report to us about your property?</p>	<p>If you are contacted about an alleged breach, you are entitled to know what the allegation is (but not who made it) and have the opportunity to explain your side of the case. If you are not involved, or if the complaint is unfounded, no action will be taken against you.</p> <p>Your co-operation will always be sought to correct the breach, either by removing or modifying the unauthorised development or by ceasing the unauthorised work. A reasonable period of time will be allowed for you to do this.</p> <p>If you are running a business, which is threatened by enforcement action, you will be helped to identify alternative premises so as to minimise the possible impact on the business. This does not mean that the enforcement action will be delayed or stopped.</p> <p>If you are issued with an Enforcement Notice you will be given the precise details of the breach, the reasons for the action, the steps required to overcome the problem and the time period for compliance. You will also be advised of your right to appeal, as may be appropriate.</p>
<p>I have been issued an enforcement notice, what should I do?</p>	<p>We will contact you to discuss the matter. However, it is in your best interests to:</p> <ul style="list-style-type: none"> • Immediately stop work on the development until a course of action has been discussed and agreed with us. • Respond promptly to any correspondence you receive, which might include a legal notice to provide us with more information, and a date by which you will need to reply. <p>We recognise that genuine mistakes are made, and a large majority of complaints are resolved without the need for any formal action. We will always advise you on the best course of action to resolve this issue as soon as possible.</p>
<p>How do I appeal a notice?</p>	<p>Enforcement appeals in England are dealt with by the Planning Inspectorate, a government agency which takes an unbiased approach to the law and procedures. There's more information about the appeal process and how to submit an online enforcement appeal through the Appeal a planning decision: Overview - GOV.UK (www.gov.uk)</p>

What to do if you are unhappy with our investigation

If you feel that there is unreasonable delay, or an error in the way in which an enforcement investigation is being carried out, you should contact us directly.

If you are dissatisfied with the outcome of our investigation, we have a Complaints Procedure. Please see link to our complaint's webpage: [Compliments, comments and complaints » Babergh Mid Suffolk](#)

If you remain dissatisfied with the outcome of any internal investigation, you may complain to the Local Government Ombudsman and information on how to do this will again be provided to you.

Please note that the Ombudsman cannot deal with a complaint which relates to a committee decision or where there is an existing legal remedy or appeals process, it will deal only with the aspects concerning the conduct of the investigation.