



LOCAL ENFORCEMENT PLAN



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1. Introduction

The Peak District National Park is an asset of national, regional, and local importance and plays a special role at the centre of England. It was the first of 15 national parks in the United Kingdom to be designated for their spectacular landscapes, cultural heritage and wildlife, and for people to enjoy them.

It is made up of a diverse variety of landscapes, and these form the basis for its designation as a National Park in 1951. As a tourist destination it attracts over 16 million visitors a year. In addition it is home to some 38,000 residents and provides over 3,000 jobs, many of which are based on the special qualities of the landscape. The effective and proper enforcement of planning controls is therefore essential to protect the landscape and to safeguard the interests of residents, businesses and visitors from the harmful effects of unauthorised development.



The National Planning Policy Framework (NPPF), which was published by the Government in March 2012, set out the Government's planning policies and how these were expected to be applied:-

Paragraph 207 of the NPPF stated:

“Effective enforcement is important as a means of maintaining 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. Local Planning Authorities 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 it is appropriate to do so.”

The Authority produced this 'Local Enforcement Plan' in response to that recommendation. The plan sets out what breaches of planning control are, explains how potential breaches can be brought to the attention of the Authority, sets out what may or may not be investigated and the priorities for investigation and action. It also outlines the tools that are available to the Authority to resolve any breaches.

In July 2018, the Government published a revised National Planning Policy Framework in which paragraph 58 repeated the above statement with regard to enforcement action and Local Enforcement Plans.

2. What is a breach of planning control?

A breach of planning control can include:

- building work or engineering operations (e.g. excavations or re-grading works) mining or other operations being carried out without planning permission
- unauthorised changes of use of land or buildings
- non-compliance with conditions imposed by a planning permission
- non-compliance with approved plans
- any contravention of the limitations on, or conditions belonging to, permitted development rights, under the General Permitted Development Order 2015 (as amended).

These are set out in Section 171A of the Town and Country Planning Act 1990 (as amended) (*from now on this will be referred to as “the 1990 Act”*).



In the Peak District National Park the most common breaches we investigate include:

- Storage of non-agricultural materials, such as stone, scrap metal and vehicles, on agricultural land without planning permission
- Erection of buildings without planning permission
- Erection of domestic extensions larger than shown on the approved plans
- Formation of hard surfaces to form car parks or car parking spaces without planning permission
- Uses of agricultural buildings for non – agricultural purposes.
- Non - compliance with occupancy or landscaping conditions

3. Monitoring

When planning permission, or another type of consent such as listed building consent, is granted it is important that the approved plans and any conditions are adhered to. The person carrying out the development is responsible for ensuring this and should make sure that any contractor they employ is aware of the approved plans and any conditions. If any changes are proposed, these should be discussed in advance with the Development Management Service. If unauthorised changes are made then there is a risk that the work will have to be reversed, resulting in possibly significant cost and disruption.

The Authority carries out selective site inspections of approved developments. To help us plan these inspections developers are encouraged to send in a tear-off slip which is attached to the approval notice notifying the Authority when work is due to start. Site inspections are carried out to ensure the development is in accordance with the permission. In addition, many of the officers in our Development Management Service and across the Authority spend time on site visits and carry out an informal monitoring role.

Even where breaches of planning control are not identified by the Authority there can be far reaching consequences for the owner in that the property may be difficult or impossible to sell or mortgage, and its value may be adversely affected.

Minerals and Waste Sites

Minerals and waste development control is part of the general planning system and there are no separate enforcement powers for unauthorised minerals working or unauthorised waste developments. This 'Local Enforcement Plan' applies equally to minerals and waste cases.

The winning and working of minerals includes the extraction/mining of minerals in and under the surface and the operation of ancillary and associated plant, buildings and machinery for processing minerals. Waste management facilities include waste transfer stations, materials recycling facilities, composting facilities; scrap metal operations; end of life vehicle dismantlers; incinerators, waste treatment facilities including sewage works and the disposal of waste to land.

Unauthorised minerals working and waste developments sometimes pose particular enforcement problems in terms of the occasionally irreversible nature of the working and the speed at which damage can be caused.

Mineral and waste issues can pose particular operational problems that require technical knowledge, experience and information from frequent monitoring. To reflect the unique nature of this type of development, the monitoring and enforcement of minerals and waste development is carried out by the Authority's minerals and waste team.

4. In what circumstances can we take action?

The Authority has a duty to investigate alleged breaches of planning control, but must only take enforcement action where it is 'expedient' to do so and any action taken will need to be proportionate with the breach of planning control to which it relates. Sometimes, the personal circumstances of the person in breach must be taken into account e.g. where the Authority is considering whether a prosecution is in the public interest.

Matters that can be taken into account

It will often be 'expedient' to take action if the breach of planning control unacceptably affects the following:

- the landscape
- conservation interests
- public amenity
- public safety
- highway safety

In addition to the above, the Authority also has to be clear that resolving the breach would be in the 'public interest'.

Matters that cannot be taken into account

There are some issues that will not be taken into account when making decisions on expediency, these include:

- change in the value of a neighbouring property
- competition between business
- the loss of a private view
- trespass onto someone else's land
- boundary disputes
- rights or obligations contained in property 'title deeds'
- any matter covered by other legislation such as noise and smell

Although it may be possible to address some of these by way of civil action, these are matters for the individual to pursue and are not matters that the Authority can get involved in. Further advice can be obtained from a solicitor or the Citizens Advice Bureau via the following link:

<http://www.citizensadvice.org.uk/index/getadvice.htm>

Development Plan

In deciding whether to take enforcement action the Authority is also required to have regard to the Development Plan and to any other material considerations including national policies as expressed through Government Circulars and Policy Guidance.

The 'Development Plan' for the National Park currently comprises the Peak District National Park Local Development Framework (adopted October 2011) and the saved policies of the Peak District National Park Local Plan (adopted 2001). The Authority has also adopted a number of Supplementary Planning Documents on particular subjects.

All of these documents can be accessed via the following link:

<http://www.peakdistrict.gov.uk/planning/how-we-work/policies-and-guides>

National Planning Policy Framework

The National Planning Policy Framework and Planning Practice Guidance can be accessed via the following link:

<http://planningguidance.planningportal.gov.uk/>



Equality Duty

The Equality Act 2010 requires public authorities, in exercising their functions, to give due regard to the need to eliminate unlawful discrimination and harassment and other conduct prohibited by the Act; and to advance equality of opportunity and foster good relations between people who share a relevant protected characteristic (as defined in the Act) and those who do not share it.

The National Park Authority, in carrying out its functions in relation to planning enforcement, will pay appropriate regard to its duty under the Equality Act 2010.

Further guidance on the Act can be found at <https://www.gov.uk/equality-act-2010-guidance>

5. What are our priorities?

The Authority receives a large number of enquiries each year and although many of these do not result in enforcement action, others do and require lengthy investigations or legal action over months and sometimes years. As resources are limited, it is essential that they are used to their maximum effect. The Authority therefore gives **priority to those cases where greatest harm is caused**. Individual cases may be re-prioritised as the investigation progresses, new evidence comes to light or if there are attempts to put any breach right.

The Authority has a three-tier prioritisation system, as shown below.

High Priority

- Unauthorised building, mining or other operations that are having a serious detrimental impact on the valued characteristics of the National Park (e.g. large unauthorised buildings prominently sited in the open countryside, unauthorised storage of building materials, scrap metal or stone on sites that are highly visible from public vantage points).
- Uses of land and/or buildings that are causing significant harm to amenity or public safety and/or are seriously damaging to the valued characteristics of the area (e.g. noisy industrial or commercial uses close to residential properties).
- Any unauthorised development within the Natural Zone (see policy LC1 of the Local Plan and L1 of the Core Strategy) or in a Site of Special Scientific Interest (SSSI), particularly where it affects the natural and remote character of the area or harms the features of the SSSI.
- Potential threats to trees that are subject of a Tree Preservation Order or important trees in Conservation Areas.
- Significant works of demolition, removal of historic features or other unauthorised works to listed buildings that seriously affect their historic and/or architectural character.
- Threat of demolition of unlisted buildings (including boundary walls) within Conservation Areas which make a significant contribution to the character and appearance of the area.
- Breaches of planning control that cause harm and are nearing immunity.

Medium Priority

- Unauthorised building or other operations that are having a moderate impact on the valued characteristics of the National Park (e.g. stable buildings located on an open field away from other buildings, or extensions to buildings which appear unsightly, but do not cause any significant amenity issues. Vehicle bodies used for storage or housing animals).
- Uses of land and/or buildings that are causing moderate harm to amenity or public safety and/or to the valued characteristics of the area (e.g. some types of open air storage, untidy land and activities taking place on weekends creating noise and disturbance)
- Unauthorised works to listed buildings that moderately affect their historic and/or architectural character.
- Unauthorised advertisements in the open countryside or within Conservation Areas that detract from the valued characteristics of the area.

- Breaches of residential occupancy conditions (e.g. those attached to agricultural worker's dwellings, holiday accommodation and local needs dwellings).

Low Priority

- Unauthorised advertisements within designated settlements not causing serious harm to the valued characteristics of the area and/or to residential amenity
- Minor developments resulting in limited harm to the valued characteristics of the area and/or to residential amenity (e.g. the erection of wall, gates and fences, sheds or hardstandings)
- Minor breaches of planning conditions resulting in limited harm to the valued characteristics of the area and/or to residential amenity (e.g. non - compliance with minor landscaping schemes)
- Untidy land/buildings causing minimal harm to the valued characteristics of the area and/or to residential amenity
- Unauthorised satellite dishes on buildings

It is important to note that the lists above are examples only and are not exhaustive.

Valued Characteristics

A full list and detailed discussion of what is meant by the term 'valued characteristics of the area' is set out in the Authority's Core Strategy. For planning enforcement purposes however the key 'valued characteristics' to consider include the impact of the breach of planning control on the following:

- natural beauty, natural heritage, landscape character and diversity of landscapes
- sense of wildness and remoteness
- clean earth, air and water
- wildlife
- biodiversity
- distinctive character of hamlets, villages and towns
- trees, woodlands, hedgerows, stone walls, field barns and other landscape features
- historic buildings, and registered parks and gardens
- tranquillity and quiet enjoyment
- outdoor recreation and adventure

As a general rule, the greater the impact on these things, the greater priority we will give to the enforcement case.



The Role of Authority Members

Most members of the Authority, particularly those who sit on the Planning Committee, take a keen interest in enforcement and regard it as central to the work of the Development Management Service. A review of enforcement activity is reported to the Planning Committee each quarter in January, April, July and October. This gives members the opportunity to scrutinise the work of the Monitoring & Enforcement Team.

6. How do I report a possible breach of planning control?

If you are concerned about building work, a change of use, the display of an advertisement or any other planning matter which you believe may be unauthorised, please make an enquiry in one of the following ways:

In writing: Development Management Service
Peak District National Park Authority
Aldern House
Baslow Road
Bakewell
DE45 1AE

E-mail: customer.service@peakdistrict.gov.uk

In person: At the Authority's office in Bakewell (address as above)

Telephone: (01629) 816200

For telephone enquiries and visits to our office, our office hours are 8.45am to 5.00pm Monday to Thursday and 8.45am to 4.45pm on Friday. On bank holidays the offices are closed. Out of hours there is a facility to leave a telephone message.

Information Requirements

To properly investigate an enquiry we need as much information as possible up-front. This might include the following:

- an accurate address of the site involved, preferably including a postcode. If it is an unusual site and you cannot find out its address, you could try providing photographs and locating it on a map.
- a summary of the breach (description of the buildings works or an overview of the use)
- approximate dimensions of any buildings, parts of buildings or structures
- any relevant dates and times (commencement and completion, or stage of building works, or times that a use take place)
- details of any relevant planning permissions
- details of any vehicles involved
- name and address of the owner and/ or the occupier of the premises and any other persons involved in the breach (such as a relevant company name, building company , contractor)
- details of the harm caused by the breach of planning control and what has prompted the enquiry



Personal Information

We encourage enquirers to provide contact information so that we get in touch if we require further information or clarification.

Whilst the subject of the enquiry is public information, the name, address or other personal details of the enquirer will not normally be published or otherwise made available as they are protected by data protection legislation. It is possible however that the person who is the subject of the enquiry will draw their own conclusions about the source of the enquiry.

In some limited cases, a court or the general law may mean that we have to make this information available.

7. Investigation Process

Acknowledgement

Once the enquiry is received it will be allocated to one of our officers. Written enquiries, including emails, will normally be acknowledged in writing within three working days of receipt, as will telephone enquiries, provided contact details are given.

Site Visit and Rights of Entry

The next step will usually be for one of our officers to visit the site. This will be done as soon as possible, but as we receive a high number of enquiries we will prioritise our visits according to the apparent seriousness of the problem. We do however aim to visit within four weeks of the enquiry or within one week if the issue appears to be particularly serious.

The officer will identify themselves to anyone present on the site at the time and explain the purpose of the visit. They may ask questions, take photographs and obtain measurements as these will often be used to determine whether or not there has been a breach of planning control.

Our Monitoring & Enforcement Officers have specific rights to enter land to investigate potential breaches of planning control in order to determine whether enforcement action should be taken and to check compliance with any requirement from earlier enforcement action. They are also entitled to bring third parties onto the land to assist or advise them in carrying out their duties if they consider it necessary. This right to enter land extends to any land, including land adjacent to the site in question.

When exercising its rights of entry the Authority's officers will have regard to the Government's Code of Practice, details of which can be viewed at the following link.

<https://www.gov.uk/government/publications/powers-of-entry-code-of-practice>

Research

The officer may also need to do other work such as researching the planning history of a site, checking Development Plan policies or contacting Council Tax, the Highway Authority or the Land Registry.



Outcomes

If there is no breach of planning control or we decide to close the enquiry for another reason we will contact the enquirer and explain why.

Enquiries may be closed for a variety of reasons including:

- there is no, or little, evidence of a breach
- development has taken place but planning permission is not required, usually as the development benefits from permitted development rights
- the development already benefits from planning permission granted by the Authority

It is important to note that the closure of an enquiry does not preclude the Authority from re-opening the enquiry and making further investigations should the need arise.

If a breach of planning is identified we will advise the enquirer that this is the case and then follow the process set out in section 8.

Planning Contravention Notice

Where it appears that a breach of planning control may have occurred but we wish to find out more information before deciding what if any enforcement action to take we may serve a Planning Contravention Notice (PCN). This can be served on the owner or occupier of the land, anyone who has an interest in the land or anyone who is using the land for any purpose. The PCN requires the owner, occupier, etc. to provide information about ownership and the activities taking place on the land or within any buildings on the land.

The PCN may invite the recipient to meet with the Authority to discuss the matter. This may be useful where the Authority considers that planning permission could be granted after the unauthorised development has been carried out (i.e. a retrospective planning application) but the owner or operator has not made an application.

There is no right of appeal against a PCN and failure to respond may be an offence.

Section 330 Notice

Where it is important to obtain clarification about the ownership and occupation of a property a Section 330 Notice may be served on the apparent owner or occupier requiring them to confirm details of those persons who have a legal interest.

There is no right of appeal against a Section 330 Notice and failure to respond may be an offence.

8. What happens when a breach is found?

Once the initial investigations have been carried out and it appears to the Authority that a breach of planning control may have occurred, there are a number of options available:

No Action

It may not always be expedient or possible to take enforcement action, for example, if the harm is insignificant or there is evidence that the time limit for enforcement has passed. The Authority, in deciding whether or not to take formal action, must consider if it is expedient to do so. This means, as set out in section 4 of this plan, that a judgment has to be made in each case as to the seriousness of the breach and the level of any harm caused. In making this decision we must take into account our own planning policies and the policy guidance published by the Government. If the breach is relatively minor, the level of harm caused is low and there is no significant conflict with planning policies, the Authority will not normally take action.

Where there is a breach, however, land may be difficult to sell, mortgage or its value may be reduced even if the Authority takes no or limited action.

Voluntary Compliance

The Authority will normally encourage those responsible for a breach to resolve the problem voluntarily rather than through formal enforcement action.

The person responsible for the breach will normally be written to with an explanation of the breach and, as appropriate, required by a stated date to:

- start to remedy the breach; and/or
- provide the Authority with a written proposal and/or timetable by which the breach will be remedied;
- submit a retrospective planning application.

The obligation to remedy the breach lies with those responsible for it, although the Authority is prepared to offer advice.

The Authority will not allow protracted negotiations to prevent the taking of prompt and effective formal enforcement action where this is necessary. It reserves the right to serve any notice during the course of negotiations, or in the event of a retrospective planning application being made, in order to avoid undue delay. This may also be necessary where there is a possibility that a development may become immune from enforcement action through the passage of time.

Retrospective Planning Applications

In cases where the unauthorised development appears to be acceptable the Authority will normally ask for a retrospective planning application to regularise the breach of planning control and it is usually in the interests of the landowner to do so as it will help to avoid problems when and if the property is put up for sale.

A retrospective planning application can take the form of a full planning application, a minor material amendment application, a non-material amendment application or a discharge of conditions application.

Further information on these different types of applications is available through the following link:

<http://planningguidance.planningportal.gov.uk/blog/guidance/flexible-options/>

Information on how such an application can be made is available on the Authority's website:

<http://www.peakdistrict.gov.uk/planning/your-application/how-to-apply>

Although the submission of retrospective planning applications will be discouraged where a development is clearly unacceptable, the Authority is obliged to deal with such applications even where the unauthorised development is clearly contrary to Authority policies and guidance and is unlikely to be approved.

Power to Decline to Determine Retrospective Planning Applications

The Localism Act 2011 did, however, insert new sections into the 1990 Act which give the Authority the power to decline to consider a retrospective application where an enforcement notice is in place. Further details of this measure can be accessed via the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/section/123/enacted>



Formal Action

Where informal negotiations have been unsuccessful and where the Authority considers the breach has significant harmful effects enforcement action will usually be taken. Most decisions to take enforcement action are made jointly by the Director of Planning and the Head of Law, in accordance with the Authority's scheme of delegation, but sometimes the decision is made by the Planning Committee, where, for example, there is a significant public interest.

Below is the link to the Authority's scheme of delegation:

<http://www.peakdistrict.gov.uk/planning/planning-search/delegated-powers>

Enforcement Notices

An Enforcement Notice is the most common form of notice used to deal with unauthorised development, such as building works or changes of use of buildings or land. A Listed Building Enforcement Notice may be issued when unauthorised works are carried out to listed buildings and where the demolition of unlisted buildings within a Conservation Area occurs without consent a Conservation Area Enforcement Notice may be issued. .

An Enforcement Notice will specify what the alleged breach is, the steps that must be taken to remedy it and a time period in which to carry out those steps. An Enforcement Notice cannot come into effect until at least 28 days after it is served.

Prior to the date that the notice comes into effect the recipient of the notice has a right of appeal to the Secretary of State for Communities and Local Government through the Planning Inspectorate. The Inspectorate will allocate an Inspector to determine the appeal and, in effect, he or she acts as an independent arbitrator between the Authority and the appellant. If a valid appeal is made, the requirements of the Enforcement Notice are suspended until the appeal has been determined or is withdrawn.

Below is a link to the Planning Inspectorate enforcement appeals page which contains more information on appeals:

<https://www.gov.uk/appeal-enforcement-notice>

If any person is later found to be in breach of an enforcement notice that has come into effect, the Authority will consider whether to prosecute in court. Failure to comply with an enforcement notice may be an offence subject to an unlimited fine.

Copies of all formal notices served are kept on the Enforcement Register which is available for inspection at the Authority's offices.

Further information on enforcement notices is available via the following link:

<https://www.gov.uk/guidance/ensuring-effective-enforcement#Enforcement-Notice>

Section 215 (Untidy Land) Notice

Where the condition of buildings or land causes serious harm to the amenity of an area, the Authority may serve on the owner and occupier a Notice under Section 215 of The 1990 Act. Such a notice would require steps for remedying the condition of the land or buildings and specify the time for doing so.

The Notice can be appealed at a magistrates hearing. Failure to comply with a Section 215 Notice may be an offence subject to a maximum fine of £1,000.

Further information on Section 215 Notices is contained in a guidance note, accessed online via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11491/319798.pdf

Breach of Condition Notice

This type of notice can only be used where planning permission has been granted subject to conditions and one or more of the conditions has been breached. The Authority can issue a Breach of Condition Notice (BCN) to ensure full or part compliance with the planning conditions.

A BCN would state the breach and the steps required to remedy the breach. The Notice will allow a minimum of 28 days in which to comply with the requirements. There are no rights of appeal against a BCN. Failure to comply with a BCN may be an offence subject to a maximum fine of £2500.

Further information on Breach of Condition Notices can be accessed via the following link:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/breach-of-condition-notice/>

Stop Notice and Temporary Stop Notice

The Authority has the power to issue a Stop Notice to require the immediate cessation of unauthorised works or the unauthorised use of land or buildings. A Stop Notice must be issued at the same time as an Enforcement Notice or before an Enforcement Notice comes into effect.

Alternatively a Temporary Stop Notice may be served. This is similar to a Stop Notice but can be issued without an accompanying Enforcement Notice. Temporary Stop Notices are effective immediately after they are served but are only effective for up to 28 days. Within that period the Authority must consider whether to take any further enforcement action

Stop Notices and Temporary Stop Notices are most commonly used to deal with breaches of planning control that are seriously affecting the amenity of nearby residents or to prevent serious or irreversible harm to the environment.

There are limitations on the service of these types of notice and in some circumstances compensation may be payable by the Authority if a recipient makes a successful challenge. Stop Notices and Temporary Stop Notices are therefore used selectively and only in the most serious cases.

Further information on Stop Notices and Temporary Stop Notices can be found via the following links:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/stop-notice/>

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/temporary-stop-notice/>

Direct Action

Failure to comply with the requirements of an enforcement notice, breach of condition notice or a Section 215 notice may result in the Authority carrying out works required by that notice. Any costs and expenditure incurred in carrying out such works can be recovered from the landowner and where costs and expenditure are not recovered they can be registered as a charge on the land.

Injunctions

Legal powers (contained in s. 187B of The 1990 Act) are available for the Authority to apply to the courts for an injunction to stop an actual or alleged breach of planning control. Injunctions are a

discretionary order. They can be used to require someone to stop doing something or to require them to carry out something. They are usually only used where there is urgency, where the breach is serious or where other legal processes have not led to the breach being rectified. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.

Further information on injunctions can be accessed via the following link:

<http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/injunction/>

Prosecution

A breach of planning control is not a criminal offence. However, non-compliance with the requirements of a formal notice to remedy a breach may be a criminal offence and on conviction the person served with the notice may be subject to a fine.

Where a contravener has failed to comply with a formal notice the Authority will normally instigate prosecution proceedings if there is a realistic prospect of conviction and it is considered to be in the public interest to do so.



At the time the Authority secures a conviction it may seek a confiscation order against the defendant under powers set out in the Proceeds of Crime Act 2002. In summary, these powers allow for financial benefit in excess of £5000 arising from criminal offences to be recovered. In deciding the amount to be recovered the court can also take into account property held by the defendant or transferred to the defendant in the preceding six years and expenditure incurred by the defendant in the preceding six years, as it would normally be assumed that those benefits have been obtained as a result of general criminal conduct.

9. Immunity from Enforcement Action

The Planning and Compensation Act 1991 introduced rolling time limits within which planning authorities can take planning enforcement action against breaches of planning control.

The time limits are:

- **4 years for building, engineering, mining or other operations in, on, over or under land without planning permission**

This development becomes immune from enforcement action four years after the operations are substantially completed.

- **4 years for the change of use of a building, or part of a building, to use as a single dwellinghouse**

This development becomes immune from enforcement action four years after the date the change of use first occurred.

- **10 years for all other changes of use and breaches of conditions**

The ten year period runs from the date the breach of planning control first commenced.

Lawful Development Certificates

If owners of land or property consider that a breach of planning control has become immune from enforcement action they may apply for a Lawful Development Certificate (LDC). If granted, such a certificate provides documentation to establish the lawfulness of the existing development.

This option is well worth considering because should a landowner later want to sell his property the LDC can be used to answer queries raised by potential buyers or their legal representatives regarding the legality of building works or uses, and in any case it is important that all paperwork and records relating to your property are clear and up to date.

Further information is provided in 'Lawful Development Certificates: A Users Guide,' which is available via the Planning Portal. The web address to access this document is as follows:

<http://planningguidance.planningportal.gov.uk/blog/guidance/lawful-development-certificates/>

Concealed Breaches

The Localism Act 2011 gave additional powers to planning authorities to take enforcement action after the expiry of the time limits set out above.

These powers allow the Authority to take enforcement action against breaches of planning control which have been **deliberately concealed** even after the relevant time limits have expired. The relevant legislation can be accessed via the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/section/124/enacted>

10. Breaches of other types of consent

The Authority also deals with breaches of other consent regimes. These relate to advertisements, listed buildings and protected trees and are outlined below:

(a) Advertisements

The legislation concerned with advertisements is separate from that dealing with general planning matters and is contained within The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The Advertisement Regulations can be accessed via the following link:

<http://www.legislation.gov.uk/ukxi/2007/783/contents/made>

The Peak District National Park is designated as an Area of Special Control under Section 221(1) of the 1990 Act and consequently some specific restrictions apply to advertisements, over and above those that apply generally. Advice should therefore be sought from the Authority's Development Management Service, before any advertisements are displayed on a building or land.



Prosecution

The display of an advertisement without express consent may be an offence, subject to a maximum fine of £2500, and the Authority may prosecute the person displaying it. There is no need for an enforcement notice to be served.

The Authority will first give the offender an opportunity to remove the advertisement without the need to resort to a prosecution.

Prosecutions are more likely to be brought if the person who has displayed the advert is a prolific offender and/or the adverts are harmful to amenity or public safety.

The Localism Act 2011 inserted some new sections into the 1990 Act which give the Authority additional powers for dealing with unauthorised advertisements. These include issuing a 'Removal Notice' or an 'Action Notice'.

Removal Notice

Section 225A of the 1990 Act gives the Authority the power to remove structures (such as hoardings) which are being used for unauthorised advertisement displays.

The Authority would first serve a 'removal notice and would then be able to recover the expenses of removal if the structure was not removed by the time specified in the notice.

There is a right to compensation where any damage is caused to land or property, other than damage caused to the display structure itself or damage reasonably caused from removing the structure.

There is a right of appeal to a magistrate's court against a notice. Non-compliance with a 'removal notice' may be an offence.

Action Notice

Section 225B of the 1990 Act gives the Authority powers to serve an 'action notice.

The notice will require the owner or occupier of the land to carry out measures to prevent or reduce the frequency of the display of unauthorised advertisements.

There is a right of appeal to a magistrates' court against a notice. Non-compliance with a notice may be an offence.

Discontinuance Notice

Where an advert does not require consent the Authority can serve a Discontinuance Notice requiring removal if it considers that the advert causes a substantial injury to the amenity of the locality or is a danger to members of the public.

Recipients of a Discontinuance Notice have a right of appeal to the Secretary of State.

Help and Advice

The Advertisement Regulations are complex although a simplified version can be found in the document entitled 'Outdoor Advertisements and Signs: A Guide for Advertisers,' which is available at the following web address:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11499/326679.pdf

Advice can also be sought directly from our Development Management Service by calling the Customer Services Team in the first instance on 01629 816200, or by emailing your query to customer.services@peakdistrict.gov.uk

Further information can be accessed via the following link:

<http://planningguidance.planningportal.gov.uk/blog/guidance/advertisements/>

(b) Listed Buildings

The listed building enforcement provisions are set out in Sections 38 to 46 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The relevant legislation can be accessed via the following link:

<http://www.legislation.gov.uk/ukpga/1990/9/part/I/chapter/IV>

The main difference between general planning enforcement and listed building enforcement provisions is that there are no time-limits for issuing listed building enforcement notices (see section 9). Furthermore, the carrying out of works, including demolition in full or part of a listed building, without the necessary listed building consent or failing to comply with a condition attached to that consent may be a criminal offence (under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990) whether or not an enforcement notice has first been issued.

The maximum penalty for this offence is an unlimited fine and/or 2 years imprisonment.



It is important to know that if you buy a listed building with unauthorised works, you become liable for any listed building enforcement action in connection with the unauthorised works. Before buying a listed building you should ensure that all works that have been carried out to it have received the necessary consents.

Help and Advice

To find out if a building is listed or seek advice on other issues relating to listed buildings you can either contact our Cultural Heritage Team on 01629 816200 or email the Authority at customer.services@peakdistrict.gov.uk.

Alternatively you can check whether a building is listed using Historic England's 'national list'. This can be accessed via the following link:

<https://historicengland.org.uk/listing/the-list/>

Further general information on listed buildings can be found on the Authority's website via the following link:

<http://www.peakdistrict.gov.uk/looking-after/living-and-working/your-community/historic-buildings/listed>

(c) Demolition in Conservation Areas

The demolition of an unlisted building in a conservation area requires planning permission. It is an 'offence for a person to carry out or cause or permit to be carried out the demolition of an unlisted building within a conservation area without the required planning permission. Similarly it is also an offence for a person to fail to comply with any condition or limitation subject to which planning permission for relevant demolition is granted.

The maximum penalty for this offence is an unlimited fine and/or 12 months imprisonment

Help and Advice

To find out if a building lies within a Conservation Area please contact our Cultural Heritage Team on 01629 816200 or email your query to customer.services@peakdistrict.gov.uk.

Further information on Conservation Areas can be found on the Authority's website:

<http://www.peakdistrict.gov.uk/looking-after/living-and-working/your-community/conservation-areas>

(d) Works to Protected Trees

The primary legislation relating to tree enforcement provisions is set out in sections 197 to 214 of the 1990 Act whereas the tree preservation order system is governed by the Town and Country Planning (Tree Preservation)(England) Regulations 2012. Tree enforcement issues fall into the following two principal categories:

- unauthorised works to, damage to or removal of trees that are protected by Tree Preservation Orders or those which are situated within Conservation Areas; and
- breach of planning conditions relating to tree retention and protection.

The relevant legislation can be accessed below:

Primary Legislation - <http://www.legislation.gov.uk/ukpga/1990/8/part/VIII/chapter/I>

Regulations - <http://www.legislation.gov.uk/uksi/2012/605/contents/made>

Anyone who cuts down, uproots or wilfully destroys a protected tree, or who lops, tops or wilfully damages it in a way that is likely to destroy it, is liable, if convicted to an unlimited fine. The Courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.

Anyone who carries out unauthorised work to a protected tree that is not likely to be destroyed is liable, if convicted, to a fine of up to £2,500.

In addition to directly carrying out unauthorised works to protected trees, it may be an offence to cause or permit such works to occur.



Tree Replacement Notice

Whenever a protected tree has been removed in contravention of the legislation, or because it is dead, dying or dangerous, there is a duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon as is reasonably possible. The replacement tree is then subject to the same protection as the tree that was lost.

If the landowner fails to comply with this requirement, the Authority may serve a Tree Replacement Notice within a period of four years to ensure compliance. There are rights of appeal against Tree Replacement Notices.

Help and Advice

If you would like to establish if a tree is protected, either because of a Tree Preservation Order or because it is located in a conservation area, please call Customer Services on 01629 816200 or send an email to customer.services@peakdistrict.gov.uk.

11. What to do if you are not satisfied with our service

We make every effort to provide good customer service and to follow correct procedures at all times. If, however, you have a complaint about our service you should initially contact the Monitoring and Enforcement Manager, who will try to resolve your concern. Please telephone 01629 816200 or e-mail us at customer.services@peakdistrict.gov.uk.

Formal Complaints

If your complaint remains unresolved you may wish to follow our formal complaints procedure, details of which can be accessed via the following link:

<http://www.peakdistrict.gov.uk/looking-after/about-us/have-your-say/complaints>

Ombudsman

If, having gone through the Authority's complaints procedure, you remain dissatisfied, you may refer your complaint, sending full details, to the Local Government and Social Care Ombudsman.

Complaints made in writing should be sent to the following address:

Local Government and Social Care Ombudsman
53-55 Butts Road
Coventry
CV1 3BH

Alternatively you can use an on-line complaint form available at:

<https://www.lgo.org.uk/complaint-form>

The Ombudsman is also contactable by telephone and fax:

Telephone: 0300 061 0614 (Monday to Friday 8.30am–5pm)
Fax: 024 7682 0001
Text: 'call back' to 07624 8481 1595

The web address is: www.lgo.org.uk

Note that an investigation by the Ombudsman relates to the administration of the planning process. The Ombudsman is not in a position to reconsider the merits of, or reverse, a planning or enforcement decision.