



Hart District Council

Planning Local Enforcement Plan

January 2016

HART PLANNING ENFORCEMENT PLAN 2015

1. Introduction

1.1 Planning legislation is designed to control the development and use of land in the public interest. The credibility of the planning system relies on the Council's readiness to take effective enforcement action when needed. The Council is committed to providing a speedy and efficient planning enforcement service to respond to alleged breaches of planning control.

1.2 Hart District Council follows the principles of the Regulators Code and has signed up to the Government's Enforcement Concordat that sets out the principles of good enforcement practice. These are:

Standards: to publish clear standards of service and performance.

Openness: to provide information and advice in plain language, to discuss problems with anyone experiencing difficulties and to be transparent in decision making processes.

Helpfulness: to work with all parties to advise on and assist with compliance. To provide contact details for further information.

Consistency: to carry out duties in a fair, equitable and consistent manner.

Proportionality: to take action in proportion to the risks posed and how serious the breach is.

Complaints about the Service: to provide well publicised, effective and timely complaints procedures.

1.3 In Hart Planning Enforcement is carried out under the Scheme of Delegation to Officers. The Head of Regulatory Services has delegated authority to investigate and to take enforcement proceedings. However, this is under the overview of Members who sit on the Planning (Enforcement) Sub-Committee. This Sub-Committee normally meets quarterly to consider certain cases where there are particular issues, such as the need to take direct action.

2. Purpose of Document

2.1 This policy is intended to provide guidance to officers, businesses and members of the public, setting out the principles and the standards the service will work to in enforcing breaches of planning control. It sets out what we can and can't do in terms of planning enforcement. It also explains how complaints are investigated, how we prioritise and what tools we have available where enforcement action is considered necessary.

2.2 Hart District Council Regulatory Services has an adopted enforcement policy and has a published guidance document entitled "What you can expect from Regulatory Services in Hart District". This policy document fits within that overall framework alongside other regulatory service policies

3. About Planning Enforcement

- 3.1 Government guidance to local planning authorities on enforcement is set out the [National Planning Policy Framework](#) at paragraph 207 and identifies effective enforcement as an important means of maintaining public confidence in the planning system. The National Planning Policy Framework is supported by [Planning Practice Guidance \(Ensuring Effective Enforcement\)](#).
- 3.2 There is no duty under the Town and Country Planning Acts to take planning enforcement action - powers given to local authorities are discretionary. In deciding whether to take enforcement action, the Council must decide whether the unauthorised works would unacceptably affect public amenity. For example, it would not be appropriate to take action in the case of a small extension to a dwelling, which although technically needing an application planning permission, does not cause any harm to the amenity of the area or nearby residents.
- 3.3 It is important to remember that, in general, it is not a criminal offence to carry out development before first obtaining planning permission and it only becomes an offence when there is failure to comply with a formal enforcement notice. However, there are exceptions to this in that unauthorised works to listed buildings, carrying out works to protected trees and the display of advertisements without the necessary consent all do constitute offences which are liable to prosecution. (See further information at below).
- 3.4 Planning enforcement can be a lengthy process, particularly where evidence needs to be collected or where formal notices are served and the right to appeal is exercised. A satisfactory outcome can take many months to achieve. There are also time limits after which enforcement action cannot be taken. Generally speaking, if a building has been completed for more than 4 years, or a use has been carried on, or a planning condition breached, for more than 10 years, the Council will not be able to take any enforcement action. (This does not apply in the case of listed buildings).

4. What we can deal with

- 4.1 Hart Planning Enforcement deals with the following matters:
- Unauthorised building works
 - Unauthorised change of use
 - Unauthorised works to listed buildings
 - Unauthorised demolition in Conservation Areas
 - Unauthorised works to trees covered by a Tree Preservation Order or within a Conservation Area
 - Works not being carried out in accordance with the approved plans
 - Breaches of planning conditions
 - Unauthorised advertisements
 - Untidy sites (beyond what you would expect for an activity of that type)

5. What we can't deal with

- 5.1 Hart Planning Enforcement is unable to deal with the following matters:

- Works that do not require planning permission
- Minerals and waste planning enforcement matters (these are dealt with by Hampshire County Council)
- Works that have not yet started (except in exceptional circumstances where a serious breach can be prevented)
- Boundary disputes
- Obstruction of a highway or public footpath (this is dealt with by Hampshire County Council)
- Advertisements on the highway or on street furniture (these are dealt with by Hampshire County Council)
- Enforcement of deeds or covenants (these are enforced by the landowner or other person benefiting from the covenant)
- Fly-tipping (this is dealt with by the Council's Streetscene service)
- Noise issues (this is dealt with by the Council's Environmental Heath Team, unless there is a condition attached to a planning permission restricting noise levels that is being breached)
- Anonymous complaints unless they are of a very serious nature and it is in the public interest to do so

6. How to make contact with us

- 6.1 If you are concerned that a matter may be a breach of planning control you can raise this on the Council's [planning enforcement form](#) or by making contact in one of the following ways.

Telephone: 01252 774419

Email: planningadmin@hart.gov.uk

Web: www.hart.gov.uk

By post: Hart District Council
Civic Offices
Harlington Way
Fleet
Hampshire
GU51 4AH

Or in person at the above address between 9am and 5pm (Monday-Thursday) 9am and 4:30pm (Fridays) excluding national holidays.

- 6.2 You will need to provide:

- The address of the site
- Your own contact details, including your name and address
- Details of the alleged breach, including the start date, if known
- An indication of what harm is being caused, and to whom
- Any details you have about the persons responsible

- 6.3 Complaints can be made by telephone, but will not be dealt with unless sufficient information is provided to allow the officer to undertake an initial investigation. If the information given is found to be false, the enquiry will not be continued unless the breach is seriously harmful to the area. Similarly, anonymous complaints will not be investigated unless they are of a very serious nature, it is in the public interest to do so and the investigation is not reliant on the evidence of the complainant.
- 6.4 The identity of a complainant will be treated as confidential. However, if the complaint results in a court case, the success of that case may rely on evidence being given by the complainant. In such a case, the Council will discuss this with any potential witnesses before taking a decision about whether to prosecute an offender.

7. How we prioritise complaints

- 7.1 Although we appreciate that all allegations of breaches of planning control are important to those they affect, to make the most effective use of the resources available, cases will be prioritised, taking into account the significance of the breach and the level of harm caused. The priority categories for unauthorised works are listed below. These timescales are the longest period in which we intend to respond to a complaint I and in all instances the service will seek to visit as soon as possible.

Priority 1 – High priority (Site visit up to 2 working days):

- Demolition or alteration of a Listed Building
- Demolition of a building within a Conservation Area.
- Works to trees protected by a Tree Preservation Order or within a Conservation Area.
- Any unauthorised development/activity/operation, falling within planning control that presents an immediate and serious danger to the public

Priority 2 – Medium priority (Site visit up to 5 working days):

- Development not in accordance with the approved plans during the construction process
- Development causing serious harm to the amenity of nearby residents, e.g. through impact on privacy or outlook
- Advertisements causing serious harm to amenity or highway safety
- Commencement of works without clearing conditions precedent

Priority 3 – Low priority (Site visit up to 10 working days):

- Advertisements
- Minor works including fences, walls, small extensions
- Condition monitoring
- Untidy sites
- Other breaches of planning control

- 7.2 These categories will be used not only to determine how quickly a site visit will be carried out, but also to decide what priority is given to each case when officers are managing their workload.

7.3 Individual cases may be re-prioritised as the investigation progresses and as new evidence comes to light.

8. How we investigate an allegation

8.1 We aim to acknowledge all complaints within 3 working days and to visit the site in the timescales set out above.

8.2 In most cases it will be quite clear from a site visit and the planning history whether a breach has taken place. However, there are some cases, particularly involving changes of use, where a number of site visits will be needed or more information will be required.

8.3 Authorised officers have statutory powers to enter land and buildings to investigate breaches of planning control. Officers will produce evidence of their authority, identity and the purpose of their visit when requested. It is an offence to obstruct an authorised person exercising their right of entry.

8.4 In some cases we might need to ask complainants to help by keeping a log of activities to help provide evidence of a breach. If the complainants are unwilling to do this, the Council may not be able to pursue the case due to insufficient evidence being available as a successful prosecution may rely on those collecting such details being prepared to give evidence in court.

8.5 The Council will not normally undertake covert surveillance for planning enforcement purposes. Should it be considered necessary to do so, surveillance will only be undertaken with prior authorisation and in accordance with the provisions of The Regulation of Investigatory Powers Act 2000 or any subsequent legislation.

8.6 To obtain further information the Council will, where necessary, serve the following notices:

8.6.1 A *Planning Contravention Notice* (PCN) is used where further information is required about ownership of land or the activities being carried out there. It can be served on the owner or occupier of land, or a person who is carrying out operations on the land or is using it for any purpose. A PCN will require the recipient to provide the information requested within 21 days relating to the breach of planning control alleged. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine being £1,000. To knowingly or recklessly provide false or misleading information on a PCN can result in a fine of up to £5,000.

8.6.2 A *Requisition Notice*, under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 can be used to establish information about the ownership of land. It is an offence to fail to respond to the notice or to knowingly or recklessly provide false or misleading information. The maximum fine on conviction is £5,000.

8.7 The Council will also use other publically available sources of information such as Land Registry records or information which is published on the internet.

9. Proactive Investigations

- 9.1 As well as responding to complaints about alleged unauthorised developments or breaches of planning conditions, the council provides a proactive approach to ensure compliance with planning permissions and other consents. It is the responsibility of developers to comply with the conditions imposed on any planning permission or consent or with any terms identified in legal agreements. However, failure to comply can affect not only the quality of the local environment or the amenity of neighbouring properties, but also undermine the reasons and justification for granting planning permission or other consents in the first instance. Failure to comply with planning conditions also exposes an applicant or developer to the potential for enforcement action.
- 9.2 Proactive action will encourage and enable compliance with conditions to safeguard that development remains acceptable in planning policy terms whilst maintaining an attractive, high quality environment.
- 9.3 We will work closely with other services within the Council such as Building Control, Environmental Health and Revenues & Benefits to help in identifying potential breaches.
- 9.4 The Council will operate a risk based approach in deciding which cases are to be investigated or monitored to ensure our available resources are used in a targeted and focused way. Priority will be given to:
- larger developments such as those over 10 dwellings or development greater than 1 hectare in area;
 - Commercial developments over 1000sq metres floor area or 0.5 hectares in area;
 - Decisions subject to a planning agreement (Section 106, CIL or any subsequent method);
 - Proposals which have trees which are protected by Tree Preservation Orders;
 - Where there has been a history of non-compliance at a particular site;
 - Significant works to Listed Buildings.
- 9.5 This is not an exhaustive list and our officers will use their discretion if there are other applications which do not fall into the scope above but there is a justifiable need to carry out proactive monitoring.

10. The Council's Approach to Planning Enforcement

- 10.1 The integrity of the development management process depends on our readiness to take enforcement action when it is considered expedient to do so. The quick initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and more difficult to stop.
- 10.2 The Council will not condone willful breaches of planning law but it will exercise

discretion about taking enforcement action if it is considered expedient to do so.

- 10.3 The Council will take into account its Policies on Enforcing Planning Control (Appendix A) when considering whether to take enforcement action.

11. What action might we take?

- 11.1 The options available to the Council will depend on the results of its investigation. These include:
- 11.2 **No action** – if it is found that an application for planning permission is not required, or the breach is very minor and causes no harm to the environment or nearby residents, then no further action will be taken.
- 11.3 **Negotiate solution** – we will try to negotiate a satisfactory solution within 12 weeks of the start of an enforcement investigation wherever possible. This approach achieves a suitable outcome and avoids the time and cost of serving notices, fighting appeals and possibly taking the offenders to court. If building works or an unauthorised use is considered to be unacceptable, the developer will be given a realistic deadline by which to remove the building/cease the use. If this deadline is not met, then formal enforcement action will be taken. Clear timescales for compliance will be given to the landowner and other interested parties at all stages.
- 11.4 **Retrospective application** – where a development is in line with policies in the Hart Local Plan and the development is causing no harm, or where planning conditions can be used to make a development acceptable, the Council may invite the developer to submit a retrospective planning application depending on the nature of the breach of planning control and the expediency to do so. This would only be appropriate in cases where formal enforcement action has not been taken.
- 11.5 **Invite an application for Lawful Development Certificate** – if it appears to the Council that a use or development might have become lawful by passage of time, the developer will be invited to submit an application for a Lawful Development Certificate. If the application is approved, no further action will be taken. If it is refused, and no appeal is lodged, then the Council will decide whether formal enforcement action is necessary.
- 11.6 **Breach of Condition Notice** – where a planning condition has not been complied with, a Breach of Condition Notice can be served. The notice sets out what steps are needed to comply with the condition and by what date this action must be taken. There is no right of appeal against a Breach of Condition Notice and failure to comply can result in a prosecution in court.
- 11.7 **Enforcement Notice** – if a development is causing harm to the surrounding area, or is contrary to local plan policies, and attempts to negotiate a solution have failed, then a formal Enforcement Notice will be served. An Enforcement Notice will set out what harm is being caused by the development, what steps are needed to remedy the harm and the timescale in which these steps must be taken.

- 11.8 **Stop Notice** – in cases where urgent action is needed to remedy harm being caused, a Stop Notice can be served in addition to the Enforcement Notice. The purpose of a Stop Notice is to require activities to cease before the date for compliance set out in the Enforcement Notice. These are only used in exceptional circumstances where serious harm is being caused to public amenity.
- 11.9 **Temporary Stop Notice** - These take effect immediately and do not have to be accompanied by an Enforcement Notice. They last for a period of 28 days during which the local authority must decide whether any further action is needed. They cannot be used in certain situations, e.g. the use of a building as a dwelling, or in some cases involving use of a caravan where it is the occupant’s main residence (although there are exceptions to this).
- 11.10 **Injunction** - in very serious cases, where irreparable harm and serious danger is being caused, or where all other methods of enforcement have failed, the Council can seek an injunction in the County Court or High Court to restrain or prevent a breach of planning control. Failure to comply with an injunction is a contempt of court and can lead to a fine, imprisonment or assets being seized. This is only used in exceptional circumstances.
- 11.11 **Prosecutions** - although normally a last resort, are an important part of the enforcement function. In deciding whether to prosecute, the Council will take into account whether it is in the public interest and whether there is sufficient evidence to prove the case beyond reasonable doubt. As referred to above, this may be dependent upon complainants being willing to assist with the provision of evidence and by appearing in court.
- 11.12 **Direct action** - Where any steps required by an Enforcement Notice have not been taken within the compliance period (other than the discontinuance of the use of land), the Council will consider whether to exercise its power to enter the land and take the steps to remedy the harm; and to recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so. If the costs cannot be recovered, a charge will be registered on the property with the Land Registry.
- 11.13 **Planning Enforcement Order** - A local planning authority can seek a Planning Enforcement Order through the Magistrate’s Courts where a breach of planning control has been deliberately concealed in an attempt to circumvent the “4 year rule” or the “10 year rule” which normally provide immunity from enforcement action. Its use will depend on whether or not there are other remedies available but also on whether or not any “concealment” was deliberate.
- 11.14 **The Proceeds of Crime Act 2002** provides for the confiscation or civil recovery of the proceeds from crime in the UK. The Council may be able to seek an award under the Act if relevant criteria are satisfied and the breach of planning has resulted in monetary or other gains being made by the individual concerned.

12. Trees

- 12.1 Trees are protected when they are covered by a Tree Preservation Order or if they are within a Conservation Area. Anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting permission from

the Council is guilty of an offence.

- 12.2 In a Conservation Area, a person wishing to cut down or carry out works to trees is required to give 6 weeks notice to the local planning authority. This is to give the LPA the opportunity to make a Tree Preservation Order if they consider the tree contributes to the amenity of the area. Anyone who carries out such work without serving a notice on the LPA is guilty of an offence.
- 12.3 If we receive information to suggest that a protected tree is being felled, we will treat this as a high priority and visit the site as soon as possible. When questioning the owner of the land, or the person carrying out the work, The Council will then consider whether it is in the public interest to prosecute those concerned. The planting of replacement trees will normally be required irrespective of whether or not any further action is taken. 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.

13. Advertisements

- 13.1 It is an offence under the Town and Country Planning Act to display an advertisement without express consent. If officers consider that an application for the advertisement would probably be granted, then a retrospective application will be requested. Where the advertisement causes serious harm to amenity or public safety, a request will be made for its removal within a specific period. The Act also gives the Local Planning Authority the power to remove and dispose of structures (such as hoardings) which are being used for unauthorised advertisement displays, but not on buildings to which there is no public right of access. In these instances the Council can serve a 'removal notice and then be able to recover the cost of removal.

14. Listed Buildings

- 14.1 Listed Building Consent is required for the demolition of a listed building or for alteration or extension to the building in a manner which would affect its character as a building of special architectural or historic interest. It is an offence to carry out such works without the necessary authorization.
- 14.2 The Council can either prosecute an offender or serve a Listed Building Enforcement Notice requiring the unauthorised work to be remedied. There are no time limits for taking enforcement action in respect of listed buildings. In deciding whether to serve a Listed Building Enforcement Notice, or to prosecute an owner, the Council will take into consideration the length of time that has passed since the work took place and who was responsible for carrying out the unauthorised work.
- 14.3 It is not possible to make a retrospective application for Listed Building Consent however an application may be necessary to resolve matters. If negotiations fail, then the Council may serve a Listed Building Enforcement Notice. As with a general Enforcement Notice, this identifies the works required and the timescales.

15. Demolition in Conservation Areas

- 15.1 The demolition of an unlisted building in a conservation area requires planning

permission. This can either be applied for in conjunction with a planning application for redevelopment of a site, or a separate application for 'relevant demolition' can be made. 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.

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

- 16.1 We make every effort to provide good customer service and to follow correct procedures at all times. However, we are only human and make mistakes. If you have a complaint about the service then the Council has a [Complaints Procedure](#). However, in the first instance please direct your complaint to the case officer dealing with your case.
- 16.2 Please note that the Complaints Procedure only deals with processes and procedures in making a decision, it does not deal with matters where we had followed the proper procedures (including considering objections for matters relating to planning), relevant legislation and guidance but came to a decision that you disagree with, i.e. that it was not expedient to take enforcement action or to serve an enforcement notice.
- 16.3 If, having gone through the formal complaints procedure, you remain dissatisfied, you may refer your complaint to the Local Government Ombudsman. Details of how to do this are on the Council's website at the link above, or on the Ombudsman's website www.lgo.org.uk.



**Hart District Council
General Policy on Enforcing Planning Control
January 2016**

POLICY PE1

- a) Formal enforcement action will not normally be taken where a trivial or technical breach of planning control has occurred that causes no material harm, or it is considered that planning permission is likely to be granted unconditionally;**
- b) Hart District Council recognises the importance of establishing effective controls over unauthorised development, to assist in the preservation and enhancement of the qualities of both the built and natural environment, and to protect public amenities;**
- c) As local planning authority, the Council will exercise all reasonable powers granted under the provisions of the Planning Acts, including all other subordinate legislation, and other relevant legislation to control unauthorised development effectively;**
- d) In considering whether it is expedient to start enforcement action, the Council will take account of the policies in the current local plan and all other material considerations including the emerging Local Plan and will assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings which ought to be protected in the public interest;**
- e) In considering whether something is trivial the Council will pay particular regard to whether the site lies within a conservation area where there is a statutory duty to ensure that new development preserves or enhances the character and appearance of the area. Where unauthorised works are carried out to a listed building the Council will also have regard to whether those works adversely affect its character and appearance.**

POLICY PE2

Immediate planning enforcement action will be taken against any unauthorised development which unacceptably affects public amenity, causes harm to land or buildings or creates an immediate danger. Where this is not the case the Council will seek to negotiate a resolution of the breach of planning, either by the submission of a planning application or the cessation/variation of the activity.

The Council will try to persuade an owner or occupier of land to remedy voluntarily any harmful effects of unauthorised development. The Council will not however, allow discussions to hamper or delay any necessary formal enforcement action to make the development more acceptable on planning grounds, or to make it stop.

POLICY PE3

Where works without consent have been carried out to a listed building and the works are considered to adversely affect its character, appearance and setting, the Council will issue a Listed Building Enforcement Notice and/or start criminal proceedings where it is in the public interest to do so.

Where action is taken it may be in the form of stop notices, temporary or conventional, seeking injunctions from the Courts, prosecutions or direct action. The choice of action will be taken on the basis of what is considered to be likely to be most effective in securing compliance with planning control in the particular circumstances.

Cases involving listed buildings

Works which affect the reasons why a listed building is listed require Listed Building Consent. Where works have been carried out without consent an offence may have been committed. Subject to the extent and nature of the works, consideration will be given to whether to start criminal proceedings and/or serve a Listed Building Enforcement Notice to make sure that appropriate remedial works are undertaken.

POLICY PE4

Where unauthorised development has been carried out in a conservation area and the development does not preserve or enhance the character and appearance of the area, enforcement action will be taken in accordance with the general enforcement policies PE1.

In considering what action to take if works are carried out to a listed building without consent, the Council will have regard to the advice contained in the National Planning Policy Framework and the Planning Practice Guidance.

The choice of action will be taken on the basis of what is considered to be likely to be most effective in securing compliance with planning control in the particular circumstances. Where the breach is irrevocable then it is likely that prosecutions will be taken both as a punishment and deterrent to others.

Cases in or which affect the setting of a Conservation Area

The Council has a statutory duty to make sure that any development that takes place within a conservation area either preserves or enhances the character and appearance of the area. Where unauthorised development takes place without the relevant consents and where the Council considers that it adversely affects the character and appearance of a conservation area, action will be taken within the overall framework of Policies PE1 and PE2.

POLICY PE5

Where an advertisement has been displayed without express consent and it causes serious harm to amenity or public safety the Council will seek its removal. Where an unauthorised advertisement continues to be displayed prosecution proceedings will commence when it is in the public interest to do so.

Posters and placards may be removed by direct action.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 allows the display of some classes of advertisements and signs without the need to get consent from the Council.

Where an advertisement is being displayed without the appropriate consents it constitutes a criminal offence. Where the advertisement causes serious harm to amenity or public safety the Council will ask for it to be removed within a specified period. If the advertisement continues to be displayed after this time, formal prosecution proceedings will be considered. Equally, if an advertiser continually displays advertisements, either by replacing those previously removed or a large number of advertisements are displayed as in a commercial “campaign”, formal

prosecution proceedings will be considered.

POLICY PE6

Where a building or land is in a condition which seriously detracts from, or affects the visual character of an area, the Council will ask for measures to be taken to improve the appearance of the land. Where no improvement works are carried out within a reasonable time, the Council will serve a Notice under S215 of the Town and Country Planning Act 1990. Where the Notice has not been complied with prosecution proceedings will commence where it is in the public interest to do so and consideration will also be given to entering the land, carrying out the works in default and recovering costs.

The condition of certain buildings or land can cause harm to the visual amenity of an area. Where the condition of land or buildings is causing significant harm to public amenity, consideration will be given to serving a notice under the S215 of the Town and Country Planning 1990. The Notice will specify measures to improve the appearance of the land or buildings. If those measures are not taken within a specified time an offence has been committed. The Council can start prosecution proceedings and/or enter the land and carry out the works and then reclaim the costs from the landowner.

POLICY PE7

Where works are carried out to protected trees without consent and the works are not necessary to overcome a serious safety hazard,, or detrimental to local character, or not in the interests of the health of the tree, and is not reasonable in arboricultural terms with regard to good tree management or practice, the Council will instigate prosecution proceedings where it is in the public interest to do so and may also serve a Tree Replacement Notice under s207 of the Town and Country Planning Act 1990 as amended to secure the replacement of any trees that are felled where the land owner fails in their duty under s206 of the 1990 Act as amended

The Council makes Tree Preservation Orders (TPO) to keep visually important trees, particularly where they are threatened by development. Similar protection applies to trees within Conservation Area (s211 of the Town and Country Planning Act 1990 as amended). Consent to prune or remove trees protected by a TPO will not be given unless the Council is satisfied that it would be necessary to overcome a serious safety hazard, nuisance or detriment to local character, is in the interests of the health of the tree, or is reasonable in arboricultural terms with regard to good tree management or practice . It is a criminal offence to cut down, top, lop, uproot, willfully destroy or damage a tree in a Conservation Area in a manner likely to destroy it, without the Council's consent. In determining any fine, the Court may

take into account any financial benefit that appears likely to have accrued as a result of the offence. It will also be the duty of the landowner to plant replacement trees of appropriate size and species in the same location as soon as reasonably possible. Should the landowner fail to do so within a specified timescale the Council has the ability to act in default to carry out such works and recover the full cost of the default action.