



Winchester
City Council

WINCHESTER CITY COUNCIL

LOCAL ENFORCEMENT PLAN

JULY 2025

WINCHESTER.GOV.UK

A white silhouette of the Winchester skyline, including various church spires and buildings, positioned at the bottom of the page.

Contents

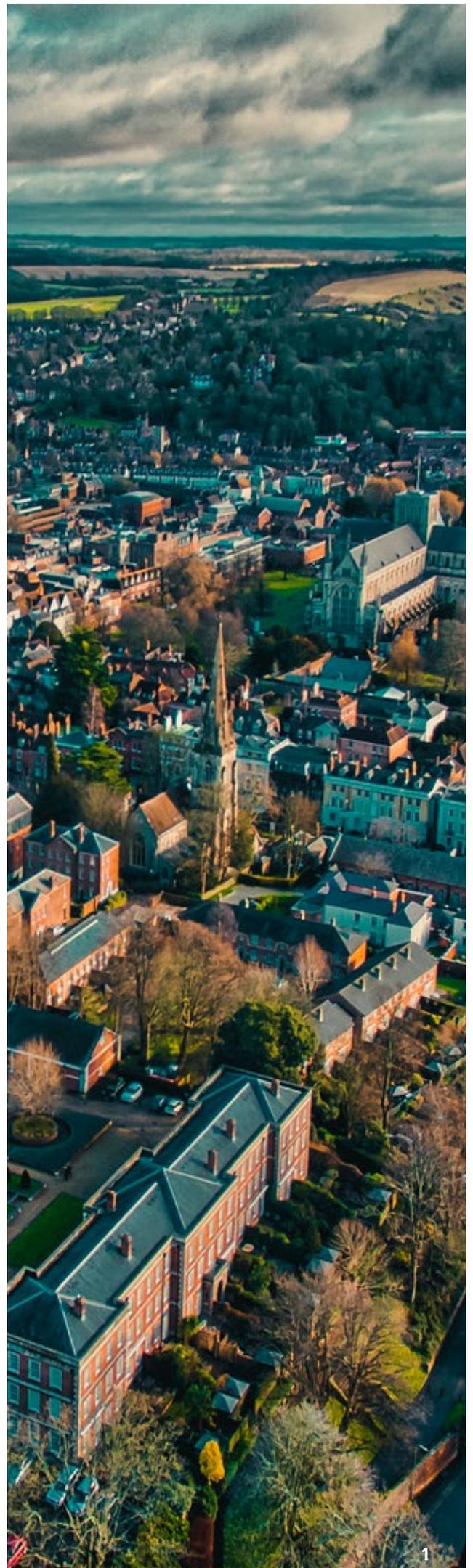
Introduction	1	Where an Offence is Committed	18
National Policy and Guidance	2	Prosecution	18
Breaches of Planning Control	3	Direct Action	18
The South Downs National Park	4	Injunction	18
Hampshire County Council	5	Proactive Enforcement and Compliance	19
Our Legislation	6	Complaints about the Council's Planning Enforcement Service	20
Our Principles	7	Monitoring and Review	21
Discretion	7	Planning Enforcement FAQs	22
Operate within the Law	8	Other Useful Links and Contact Details	23
Discretion	8	Appendix 1 - What is a breach of Planning Control?	25
Proportionality	8	Appendix 2 - Matters that are not breaches of Planning Control	26
Consistency and Fairness	8	Appendix 3 - Flowcharts:	27
Transparency	8	Appendix 4 - WCC and SDNP District and Ward Map with Links to find your Parish	31
How to Report a Suspected Breach of Planning Control	9		
Communication and What you can Expect if you Report a Suspected Breach of Planning Control	10		
Our Priorities	12		
High Hedges	13		
Hedgerow Regulations 1997	13		
The Contravener – What to Expect	14		
The Decision/Action	15		
Enforcement Toolkit	16		
The Appeals Process	17		

Introduction

Winchester City Council places great importance on protecting its communities, its heritage, and the natural environment from unauthorised development that causes harm. An effective planning enforcement service is an important means of achieving this goal and maintaining the integrity of the planning system.

As part of its commitment to the delivery of an efficient and effective planning enforcement regime, Winchester City Council has prepared this revised version of its Local Enforcement Plan (LEP) in accordance with the NPPF.

The plan sets out the Council's approach to planning enforcement; it explains how alleged breaches of planning control will be investigated; the basis on which decisions may be made; and the Council's approach to pro-active monitoring.



National Policy and Guidance

The Town and Country Planning Act 1990 provides the main legislative provisions regarding breaches of planning control, with policy guidance provided in the National Planning Practice Guidance (NPPG) "Enforcement and post-permission matters: Responding to suspected breaches of planning control" (March 2014 last updated July 2019).

Section 4 Paragraph 60 of the National Planning Policy Framework (NPPF) document: December 2024 states:

Effective enforcement is important to maintain 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. They 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 appropriate.

The NPPG (at para 006) explains that it is important to prepare and adopt a local enforcement plan because it:

- Allows engagement in the process of defining objectives and priorities which are tailored to local circumstances.
- Sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action.
- Provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; provides greater certainty for all parties engaged in the development process.



Breaches of Planning Control

The majority of building works and/or changes of use may need planning permission if considered to be development. The display of advertisements; works to a Listed Building; or works to protected (TPO) trees can also require consent. Undertaking development without first obtaining planning permission or consent; or carrying out the building work or change of use without complying with the conditions of a permission, is described as a breach of planning control.

At the end of this document, guidance as to what is a breach of planning control is provided in Appendix 1 and what is not a breach of planning control is provided in Appendix 2.





South Downs National Park

Winchester City Council also undertakes planning enforcement (excluding minerals and waste development) in the part of the district which lies within the South Downs National Park on behalf of the South Downs National Park Authority (SDNPA). For details of the approach to planning enforcement in the national park please refer to the SDNPA's Enforcement Guide:



[South Downs National Park Authority
ENFORCEMENT GUIDE](#)

<https://www.southdowns.gov.uk/wp-content/uploads/2015/01/SDNPA-Enforcement-Guide-Amended-Sep-2018.pdf>

You can check whether a site is located within the national park by using the address search page on the SDNPA's website: www.southdowns.gov.uk/planning-applications/residents/

A map is included in Appendix 4 to show which parts of the district are within the national park.





Hampshire
County Council

Hampshire County Council



Hampshire County Council (HCC) has the overall responsibility for taking enforcement action relating to 'County matters'. **This excludes areas covered by the South Downs National Park, who retain sole responsibility of their district.** 'County matters' are defined as follows:-

Town and Country Planning Act 1990:

1(1) In this Schedule "county matter" means in relation to any application, order or notice

(a) the winning and working of minerals in, on or under land (whether by surface or underground working) or the erection of any building, plant or machinery

(i) which it is proposed to use in connection with the winning and working of minerals or with their treatment or disposal in or on land adjoining the site of the working; or

(ii) which a person engaged in mining operations proposes to use in connection with the grading, washing, grinding or crushing of minerals;

Town and Country Planning (Prescription of County Matters) (England) Regulations 2003:

The following classes of operations and uses of land are prescribed for the purposes of paragraph 1(1)(j) of Schedule 1 to the Town and Country Planning Act 1990:—

(a)(i) the use of land;

(ii) the carrying out of building, engineering or other operations; or

(iii) the erection of plant or machinery used or proposed to be used,

wholly or mainly for the purposes of recovering, treating, storing, processing, sorting, transferring or depositing of waste;

(b) the use of land or the carrying out of operations for any purposes ancillary to any use or operations specified in paragraph (a) above, including the formation, laying out, construction or alteration of a vehicular access to any public highway.

Winchester City Council is not responsible for breaches of planning control concerning minerals and waste development.

Further information relating to HCC's planning enforcement powers can be found within their Planning Enforcement & Site Monitoring Plan.

[Hampshire County Council Planning Enforcement & Site Monitoring Plan](#)

Other legislation

Environmental Health Team

The Environmental Health Team at Winchester City Council are available to investigate matters relating to the following:

- Animal Welfare
- Noise nuisance
- Artificial light nuisance
- Bonfires
- The Enforcement Team may consult the Environmental Health Team on when cases refer to issues. However, complaints where the sole breach is concerned with the harm originating from the above will be asked to contact the Environmental Health Team directly.

<https://www.winchester.gov.uk/environment>

Building Control

Winchester City Council's Building Control Team functions include the following:

- Building Regulations
- Fire safety
- Dangerous structures
- Demolition of buildings (that would not require Planning Permission or Listed Building Consent)

The Building Regulations. (Amendment) (England) Regulations 2023 make changes to building regulations that will apply to all building work, to raise standards across the built environment. Legal responsibilities will be placed on those who commission building work, participate in the design and construction process and carry out the building control function, to make sure building work is compliant with building regulations.

<https://www.winchester.gov.uk/building-control>

Contact details for both departments can be found at the end of this document.

Our Principles



Discretion

Winchester City Council will seek where it is appropriate to remedy all breaches of planning control that it considers seriously harmful, using all the enforcement tools at its disposal; and where there is serious harm, the Council will act swiftly and robustly in order to resolve the matter. Please note that in most cases it is not a criminal offence to carry out development without having first obtained planning permission (exceptions include unauthorised works to listed buildings and protected trees). However, failure to comply with an enforcement notice within the timescales specified in the notice may result in criminal prosecution being sought by the Council to ensure compliance with outstanding requirements.

The law says that Councils may issue an enforcement notice if it is deemed expedient to do so, having regard to the Council's Local Plan and any other material considerations. Expediency in this context refers to the appropriateness and necessity of taking enforcement action based on the specific circumstances and potential impacts of the planning breach. In deciding, therefore, whether it is expedient to serve an enforcement notice, Planning Enforcement Officers must determine if the breach of planning control is harmful or likely to give rise to harm. If the breach is not harmful, or is unlikely to be harmful in the future, formal action will not be pursued. Note that a complainant's perception of what is harmful may differ from what is established as 'planning harm' with an associated level of severity assessed. It should be noted that planning laws and policies are designed to manage the development and use of land and buildings in the public interest. They are not intended to protect the private interests of one person against the activities of another. The Council will not become involved in neighbour disputes or other private property related issues. Cases which centre on neighbour disputes will be closed on receipt.

What is Planning Harm – "planning" harm refers to the adverse effects on public interests that planning authorities consider when assessing planning applications and breaches. This type of harm is often different from the harm that an individual or neighbour may perceive. Consequently, the service may not always meet your expectations in

considering the impact of a planning breach on you or your property. Only "material planning considerations" can be taken into account, as listed below. Evidence demonstrating harm within the context of those material considerations has to reach a high bar. For instance, overlooking must be

direct, close enough to affect privacy, and impact the main amenity areas of a property. Just because you can see a new window does not mean that it will be 'overlooking' you in planning terms.

Material considerations can include (but are not limited to):

- Overlooking/loss of privacy,
- Loss of light or overshadowing,
- Parking,
- Highway safety,
- Traffic,
- Noise,
- Effect on listed building and conservation area,
- Layout and density of building,
- Design, appearance and materials,
- Government policy,
- Disabled persons' access,
- Proposals in the Development Plan,
- Previous planning decisions (including appeal decisions),
- Nature conservation.

Issues such as loss of view, or negative effect on the value of properties are not material considerations. There is no set list defining material considerations and your Local Planning Authority will decide what is deemed to be 'material'. For more information see What are material considerations? - Planning Portal .

www.planningportal.co.uk/services/help/faq/planning/about-the-planning-system/what-are-material-considerations.



Transparency

Planning Enforcement Officers will identify themselves by name and provide their contact details in all correspondence and when meeting people on site. They will explain what is decided, clearly, and in plain English, and try to avoid jargon where at all possible. The Planning Enforcement Team will maintain the council's enforcement notices register. Anyone wishing to view the register may do so online www.winchester.gov.uk/planning/planning-enforcement/enforcement-notices



Operate within the Law

Winchester City Council recognises that carrying out unauthorised development, without first obtaining the necessary planning permission or consent, can have a harmful impact upon the district's natural environment, residents, businesses, and visitors. Effective planning enforcement is important, both to retain public confidence in the planning process, and to maintain the perception of fairness for the benefit of those who follow the rules, as well as those experiencing the impacts of development.

However, the Council must also operate within the law and remember that the legal framework is initially about assessing, and then (as appropriate) removing any harm caused by those breaching the rules.



Proportionality

Any action the Council takes must be proportionate to the degree of harm caused by the unauthorised development or use. Planning Enforcement Officers will not hesitate to take swift and effective enforcement action where there is serious harm and formal actions can be upheld in the event of an appeal and/or in front of a judge. In cases where the harm is not so serious officers will first try to resolve the matter through appropriate negotiation.

If this is required, the Council will seek to ensure that it is undertaken in both a cost effective and timely manner before any decision to issue an enforcement notice is taken.



Consistency and Fairness

The Council is committed to ensuring that all enforcement related allegations are dealt with in a consistent and fair manner. Planning Enforcement Officers may take into account other similar cases so far as relevant and will endeavour to adopt a consistent approach. Officers are required to give careful consideration to Human Rights and to the Council's equality duty, as well as data protection legislation (GDPR), and will do so to the extent necessary. The Planning Enforcement Team will liaise with other council departments such as Housing and Economic Development where action may affect residences and businesses.

How to Report a Suspected Breach of Planning Control

The way to report a suspected breach is by using the “Report a suspected breach of planning control” button on the Planning Enforcement page of the council’s website:

<https://www.winchester.gov.uk/planning/planning-enforcement/report-a-suspected-breach-of-planning-control>

The Planning Enforcement Team will not accept anonymous allegations or reports, as the Planning Enforcement Officers need the complainant’s contact details to understand more about the complaint being made, to provide updates on the investigation and/ or actions that have been taken, or to request further information. The Planning Enforcement Officers will ensure that the complainant’s identity is safeguarded within and outside the council, though in some circumstances it may be necessary for the complainant to give evidence at an appeal or at legal proceedings.

If someone does not wish to provide these details because they have reason to be concerned about this, a Ward Councillor or a Parish Councillor may assist with lodging the complaint.

The contact details for Ward Councillors can be found on the Council’s website:

<https://democracy.winchester.gov.uk/mgMemberIndex.aspx?bcr=1>

The contact details for Parish clerks can also be found on the Council’s website:

<https://democracy.winchester.gov.uk/mgParishCouncilDetails.aspx?bcr=1>

Anyone who reports a suspected breach of planning control will need to give their name, address and contact details, and a description of the breach, including the address. It would also be helpful if we are provided with the following information:

- When the alleged breach began,
- Who is thought to be responsible, including their name and contact details,
- Clear photos of the alleged breach,
- A description of the harm which is caused,
- Indicate how you are affected.

It may take longer to investigate if this information is not provided.

Communication and What you can Expect

If you Report a Suspected Breach of Planning Control.

The process for how the Planning Enforcement Team will respond to an alleged breach of planning control is described below. Flowcharts are provided in Appendix 3 which explains our two-stage investigation process and how we assess the following considerations:

- Not a planning matter,
- No breach,
- Out of time,
- Level of planning harm - low,
- Level of planning harm – high,
- Application submitted,
- Application not submitted.

Upon receiving a planning enforcement complaint, it will be logged and allocated a case reference number. You will be sent an acknowledgment within 5 working days with the reference number and confirmation if enough information has been provided. The case will be triaged by the Enforcement Technician and the Enforcement Team Leader and given a priority number based on harm level and in accordance with Section 6 of this Plan. We may not carry out a site visit at this stage, except for Priority 1 sites. You will receive an automated notification if the case is taken forward for a further Stage 2 investigation (see flow charts at Appendix 3). At this Stage, it is likely that a Planning Enforcement Officer will conduct a site visit; this is based on priority status, information received, and the outcome of the Stage 1 investigation. Site visits will remain at the discretion of the Enforcement Team.

Please note that Planning Enforcement Officers conduct independent visits for investigative purposes only, and do not meet with complainants. Many cases, especially those at Stage 1, do not require site visits and are assessed on a case-by-case basis by the Principal Officers and Team Leader so we can match the capacity of the team proportionately with the nature of the breach and ensure efficiency of the service to help all our customers.

Planning Enforcement Officers value greatly the assistance they receive from Town and Parish Councils in reporting and monitoring enforcement matters. The Enforcement Team will keep Ward Councillors and Parish Councils updated on case progress and outcomes via automated monthly lists of new, live, and closed cases. Parish and Ward Members are encouraged to proactively monitor these lists and contact the case officers directly to help us identify the sites that matter most to local people and neighbours.

All customers who have raised a complaint will be advised of the reasons for a case closure. Appendix 3 gives an overview of this communication process through the end-to-end system.

The time within which planning enforcement cases are resolved depends upon a number of factors, such as:

- The level of detail included in the initial complaint,
- The type of breach,
- The level of harm that the breach is causing,
- The evidence required to prove that there is a breach,
- The willingness of the landowner and/or developer to aid in our investigations,
- The compliancy of the landowner and /or developer to resolve the breach and take up the options offered by the LPA,
- The submission of a (retrospective) planning application,
- Whether an appeal is submitted to the Planning Inspectorate against an enforcement notice,
- The timelines imposed on a Notice or by the Planning Inspectorate to resolve.

The case officers will update complainants of the progress of all enforcement investigations at key stages. **Please bear in mind that the timeframe for this can be many weeks and months due to the reactive and complex nature of enforcement.** Examples of key stages:

Examples of key stages:

- Remedy is underway,
- An Enforcement Notice has been served,
- A planning application or appeal has been submitted.
Please note that we often close cases where this has happened, and will monitor the outcome, later reopening a case where there is further enforcement input needed.

The Council resolves 40-60% of most cases within less than 12 weeks of the date of receipt. We will advise when each enforcement investigation is closed, including an explanation of the reasons and if no further action is taken.

The Enforcement Team will not be able to provide specific timeframes for the resolution of individual enforcement cases. Enforcement cases can be complex and involve multiple stages, including investigation, negotiation, and potential legal action. Each case is unique and may require varying amounts of time to gather evidence, consult with relevant parties, and ensure compliance with planning regulations. As a result, the duration of enforcement processes can be unpredictable and may extend over several months or even years. The Service will continuously monitor and action cases when appropriate and provide updates to interested parties at key stages of the investigation.

Our Priorities

Outside of the South Downs National Park, the Council typically receives complaints of up to 500 alleged breaches of planning control each year. With the aim of providing an efficient service, the Council has adopted a priority system for alleged breaches on the basis of the likely degree of planning harm. Matters not covered under Priority 1 or Priority 2 will not be investigated.

1

Priority 1

Reported breaches of planning control that may result in **immediate, substantial or irreversible harm** and are **actively occurring on site** will be given the highest priority and a council officer will carry out a site visit within one working day of receipt of the report. For example:

- Unauthorised works to listed buildings or ancient monuments,
- (substantial) demolition works in a conservation area,
- Works to protected trees,
- Substantive breaches of a Construction Management Plan where the breach is actively or at high risk of polluting and environmentally damaging or harming a site or area.

2

Priority 2

In many cases, given the nature of the alleged breach and type of impacts, it is acceptable and often unnecessary to conduct a site visit for all alleged breaches. The list below is considered to be lower priority and will be investigated in accordance with the above procedure, within a timeframe and priority order at the discretion of the Enforcement Team Leader following triage. Priority Two examples are below:

- Unauthorised residential or commercial development
- Stationing a new residential caravan in the countryside (including gypsy sites and travelling showpeople sites)
- Commencement of development (following the grant of planning permission) without discharging 'pre-commencement' conditions.
- Building / engineering works that are causing harm or are likely to cause harm to the landscape, a conservation area, or a Site of Special Scientific Interest
- Works not in accordance with a planning permission (minor deviations will not be pursued)
- All other breaches of conditions
- Other changes of use
- Earthworks and changes to land levels (excluding County matters)
- Display of advertisements
- Agricultural developments
- Equestrian related developments
- Gates, walls, fences
- Outbuildings
- Satellite Dishes
- Untidy Land

High Hedges

Under the Antisocial Behaviour Act 2003, the Planning Enforcement Team have the powers to act as a last resort against nuisance high hedges. The High Hedge service includes a fee. This fee is non-refundable, even if the complaint is upheld and the Enforcement Team will retain an administration fee of half the value if the application is found not to follow the required stages. Before lodging

a complaint to the Council, it is important that complainants read the details set out in the Over the Garden Hedge leaflet www.gov.uk/government/publications/over-the-garden-hedge and High Hedges: Complaining to the Council www.gov.uk/government/publications/high-hedges-complaining-to-the-council/high-hedges-complaining-to-the-council (www.gov.uk). A brief summary of the High Hedge legislation is below

- Only applies to hedges and complaints cannot be accepted for tall trees,
- Only applies to evergreen or semi-evergreen hedges more than two metres high,
- The height must have an adverse effect on the reasonable enjoyment of your domestic property.

Further details can be found on our website

www.winchester.gov.uk/planning/planning-enforcement/high-hedges

Hedgerow Regulations 1997

The Hedgerow Regulations 1997, which came into effect on June 1, 1997, established new guidelines for local planning authorities to protect and preserve significant hedgerows in rural areas.

These regulations outline specific criteria for determining the importance of a hedgerow, including:

- Its value from an archaeological, historical, landscape, or wildlife perspective.
- Its age, with hedgerows older than 30 years automatically considered important. However, younger hedgerows that meet the other criteria are also deemed important.

To remove a hedgerow, landowners must submit an application for consideration by the local planning authority.

Removing hedgerows without prior approval can result in an unlimited fine as well as the requirement to replace the hedgerow.

For more information, please visit the Hedgerows website.

www.winchester.gov.uk/natural-environment/hedgerows

The Contravener

– What to Expect

The contravener will be advised of their best options for how to resolve the situation, by when, and what will happen if the advice is not followed. If the problem persists and is demonstrably harmful the Council may decide to take formal enforcement action. If the problem can be resolved with conditions attached to a planning permission, then the contravener will be advised to submit a retrospective planning application. Where there are complex breaches to resolve, the contravener is strongly encouraged to use the council's enforcement pre-application service to guide the submission of a planning application. It must not be assumed that planning permission will be granted retrospectively.

www.winchester.gov.uk/planning/planning-enforcement/planning-enforcement-pre-application-advice

If the contravener does not provide the necessary information required to establish whether a breach of planning control has occurred, or the extent of the

development, then a Planning Contravention Notice may be served which requires the provision of specific information. It is a criminal offence not to comply with this Notice. See the flowcharts in Appendix 3 of what to expect.

If enforcement action is taken, information relating to any right of appeal will be provided with the notice served.

The Decision / Action

The Council has a wide variety of enforcement “tools” that can be used if the decision is made to taken enforcement action. These can be viewed at www.gov.uk/guidance/ensuring-effective-enforcement#contents.

When an enforcement notice is issued it will include the reasons for taking enforcement action, state clearly what must be done to remedy the breach of planning control, and specify the time in which those works must be completed. See how to access the Public Register of Enforcement Notices here www.winchester.gov.uk/planning/planning-enforcement/enforcement-notices

The Council may decide to take immediate action to halt unauthorised development with the use of Temporary Stop Notices and Stop Notices. This power is discretionary, and the Council must be satisfied that it is expedient that any relevant activity should cease. The effects of issuing stop notices can have immediate, serious consequences and these must be balanced against the likely benefits to amenity in the vicinity of the site. **A stop notice can only prohibit what is essential to safeguard amenity or public safety in the neighbourhood; or to prevent serious or irreversible harm to the environment in the surrounding area.**

Details of the “Enforcement Toolkit” can be found on the following page.

Many cases do not result in enforcement action being taken. Enforcement investigations can be closed for several reasons, such as:

- There is no breach of planning control,
- The breach is remedied,
- If it is “permitted development” or within the tolerances of permitted development authorised by law (e.g. General Permitted Development Order) www.planningportal.co.uk/permission/responsibilities/planning-permission/permitted-development-rights
- Planning permission has been granted retrospectively,
- Planning permission is not required,

- The development has become lawful (due to time elapsed),
- It is not expedient to pursue enforcement action.

Even if a breach of planning control is found to have occurred it is not always expedient to take enforcement action because, for example, the works may be so minor that they do not cause harm. This is a matter of judgement for the Council and is often referred to as a technical breach of planning control. The Council decides the degree of harm and whether the breach is minor or serious in each case.

If it is found that the alleged breach is not a planning matter, but something that may be handled by another council department or outside body/organisation, the Enforcement Team will advise you of this and direct you to the appropriate team. See the list of what is, and what is not a planning matter in Appendices 1 and 2, and the list of Useful Contacts.

In some instances, such as ongoing neighbour disputes, we may suggest that you contact the Solent Restorative Partnership Service to help resolve complaints. This service covers the entire Winchester district and is free to members of the public. For further information on this service, please visit: <https://solentrestorativepartnership.org.uk/>.

Enforcement Toolkit

Planning Contravention Notice (PCN)	Planning Enforcement Order	Enforcement Warning Notice	Enforcement Notice	Breach of Condition Notice
A PCN can be issued under Section 171C of the Town and Country Planning Act 1990 in order to gather information regarding a suspected breach.	A planning enforcement order allows authorities to address apparent breaches of planning control even if the time limits have expired due to deliberate concealment.	An Enforcement Warning Notice enables the Council to formally invite a retrospective planning application when it is considered that a planning application is the appropriate way forward to regularise the breach.	A Planning Enforcement Notice is a legal document made by the Council requiring a land owner to take action in order to resolve a breach of planning control	A breach of conditions notice mandates the recipient to comply with the planning conditions specified by the local planning authority.

Stop Notice	Temporary Stop Notice	S215 Notice	Injunction
A stop notice can halt any activities related to the alleged planning control breaches mentioned in the enforcement notice, before the compliance deadline.	Temporary stop notices enable local planning authorities to swiftly address breaches of planning control, including unauthorised activities. They can prohibit various activities, even those occurring intermittently or seasonally.	A Section 215 notice can be issued by the Council, requiring the owner or occupier of land to take steps to improve its condition when the current state is adversely affecting the amenity of the area.	A local planning authority can apply to the High Court or County Court for an injunction to restrain an actual or anticipated breach of planning control if they deem it necessary.

The Appeals Process

There is a right of appeal to the Secretary of State against an enforcement notice, a listed building enforcement notice and an advertisement discontinuance notice within a specified time frame.

If an appeal is lodged with the Secretary of State, further enforcement action by the Council regarding this notice is suspended until the appeal decision is issued.

For information on how to make an appeal against a planning enforcement notice or how to submit comments on an appeal of an enforcement notice please visit: www.gov.uk/guidance/appeals#Enforcement-appeal

There is a right of appeal to the Magistrate's Court for Section 215 (untidy land) notices. Further enforcement action will be suspended if an appeal is lodged to the Magistrate's Court, pending a decision.

There is no right of appeal for a temporary stop notice, a stop notice, Section 224 advertisement notice or a breach of condition notice.

With every notice served, details of any right of appeal will be provided. See the Enforcement Appeals website for further information and details of current and historic appeals: www.winchester.gov.uk/planning/planning-enforcement/enforcements-appeals.

Where an Offence is Committed

PROSECUTION

It is a **criminal offence** to carry out works that require listed building consent without getting consent first, or to carry out works to protected trees without prior notification and/or consent.

It is also an offence to display some advertisements or undertake substantial demolition within a conservation area without prior permission. In most other cases a criminal offence only arises when an enforcement notice has been issued, has taken effect and its requirements have not been complied with by the specified date. The Planning Enforcement Officers, in consultation with the Council's legal team will apply the two key tests set down in the Code for Crown Prosecutors in deciding whether prosecution is justified www.cps.gov.uk/publication/code-crown-prosecutors.

The tests are:

- Is there sufficient evidence against the defendant?
- Is it in the public interest to bring the case to court?

The Council will always try to use its officers as witnesses in Court. However, there will be some cases where it will be necessary to rely on evidence provided by witnesses from outside the Council. In such cases the case officer will advise the witness of the possible need to attend court and to provide a written witness statement. At this point the complainant's name will become public.

The Council will always look to recover costs from the offender where evidence suggests offenders have profited from the illegal works, as a deterrent and to remedy the breach. A charge may be placed on the land to aid future recovery, or steps may be taken to seek confiscation under the Proceeds of Crime Act 2002.

DIRECT ACTION

The Council will consider taking direct action to get the breach resolved as a last resort. This means that the Council will carry out the works and recover the costs from the offender. The Council might need to apply for a Court injunction, for instance to prevent access when works are in progress or unauthorised development, or use is anticipated.

INJUNCTION

The Council will consider injunctive action where a breach of planning control is severe, or there is a threat of it becoming severe, and which can be halted by the successful application to the High Court (or County Court) for an Injunction.

The Council may also consider injunctive action for longstanding cases where the offender has failed to comply with an enforcement notice, and the harm is ongoing and now needs to be brought to an end.

The Council may apply for a prohibitive injunction to prevent some action or the continuation of some action, or it can also apply for a mandatory injunction to require positive action to be taken.

Proactive Enforcement and Compliance

It is the responsibility of individuals implementing development to comply with the conditions imposed on a planning permission. Failure to comply can affect not only the quality of the environment in the district or the amenity of neighbouring properties, but also undermine the reasons and justification for granting planning permission in the first instance.

The Council has chosen to carry out proactive compliance monitoring to encourage developers to implement developments in accordance with the approved plans and to comply with conditions, so that development remains acceptable in planning policy terms whilst maintaining an attractive, high-quality environment. By carrying out proactive compliance monitoring the Council aims to reduce the number of retrospective enforcement complaints received.

In order to be proactive, and add value to the right developments, the Council will operate a risk-based approach in deciding which cases are to be investigated or monitored. This allows the available resources to be deployed in a targeted and focused way. Priority may therefore be given to monitoring the following developments:

- Developments involving 10 or more dwellings or residential development greater than 1 hectare in area,
- Commercial developments over 1000sq metres floor area or 0.5 hectares in area,
- Developments subject to a planning agreement (Section 106),
- Particular problematic sites such as those involving significant level changes or contamination.

Any other developments may be inspected on a random basis at any time in order to ensure compliance.

Planning Enforcement Officers also provide comments on:

- licensing applications, and
- applications for licences for caravan sites, HGV operations, etc.

Complaints about the Council's Planning Enforcement Service

For those who are unhappy about the level of service received from the Planning Enforcement Team, how the process has been managed, or disagree with the outcome, then in the first instance the concerns should be discussed with The Enforcement Team Leader. If this does not resolve the matter, the concerns can be taken further through the Council's Corporate Complaints procedure Compliments and Complaints - Winchester City Council.

If still dissatisfied by the Council's response, the Local Government Ombudsman can be contacted in writing who will determine if the concerns will be investigated. Please note that the Local Government Ombudsman will only investigate if the Council's complaints process has been completed and will only be concerned that the correct procedures have been followed. The Ombudsman has no power to reverse the Council's decision.

Monitoring and Review

We will monitor performance in dealing with enforcement matters using the following indicators:

- The number of new cases received
- The number of cases closed
- Current workload (a running total of live cases)
- The percentage of complaints acknowledged
- Cases closed at point of receipt and through triage
- Immunity dates of ongoing cases
- The percentage of cases closed within the timeframes of:
 - Less than 12 weeks;
 - More than 12 weeks;
 - Less than 6 months;
 - More than 6 months.

The Winchester Local Enforcement Plan will be reviewed every two years or more frequently if there is new legislation or Government advice relating to planning enforcement.

We are committed to continuous improvement by regularly reviewing enforcement case outcomes and digital processes.

Planning Enforcement

FAQs

Planning enforcement can be a complicated and lengthy process. In order to help you understand the process, we have set out a series of frequently asked questions with answers that should help to explain the process to both the complainant and the person being investigated. These can be found on our website:

www.winchester.gov.uk/planning/planning-enforcement/enforcement-faqs

Other Useful Links and Contacts

Winchester City Council – Planning Enforcement

www.winchester.gov.uk/planning/planning-enforcement

Winchester City Council – Report a Breach of Planning Control

www.winchester.gov.uk/planning/planning-enforcement/report-a-suspected-breach-of-planning-control

Winchester City Council Planning Department

Email: planning@winchester.gov.uk

Telephone: 01962 848 177

Website: www.winchester.gov.uk/planning/

Winchester City Council – Planning Appeals

www.winchester.gov.uk/planning/planning-appeals

Winchester City Council – Enforcement Appeals

www.winchester.gov.uk/planning/planning-enforcement/enforcements-appeals

Winchester City Council – High Hedges

www.winchester.gov.uk/planning/planning-enforcement/high-hedges

Winchester City Council – Hedgerow Regulations

www.winchester.gov.uk/planning/landscape---countryside/hedgerows/

Winchester City Council - Environmental Health Department

Email: EH@winchester.gov.uk

Telephone: 01962 848 097

Website: www.winchester.gov.uk/environment

Winchester City Council - Building Control Department

Email: buildingcontrol@winchester.gov.uk

Telephone: 01962 848 176

Website: www.winchester.gov.uk/building-control

South Downs National Park - Planning Department

Email: sdplanning@winchester.gov.uk

Telephone: 01962 848 274

Website: www.southdowns.gov.uk/planning-applications/

South Downs National Park - Planning Enforcement Department

www.southdowns.gov.uk/planning/enforcement/planning-enforcement/

Solent Restorative Partnership

<https://solentrestorativepartnership.org.uk/>

Hampshire County Council - Highways Department

Telephone: 0300 555 1388

Website: www.hants.gov.uk/transport/roadmaintenance/roadproblems

Hampshire County Council - Public Rights of Way Department

Telephone: 0300 555 1391

Website: www.hants.gov.uk/landplanningandenvironment/rightsofway/reportaproblem

Hampshire County Council – Report a Breach of Planning

www.hants.gov.uk/landplanningandenvironment/strategic-planning/planning-breach

GOV.UK - Planning Permission

www.gov.uk/planning-permission-england-wales/when-you-dont-need-it

GOV.UK – Enforcement and Post-Permission Matters

www.gov.uk/guidance/ensuring-effective-enforcement

Environment Agency

www.gov.uk/government/organisations/environment-agency

HM Land Registry

www.gov.uk/government/organisations/land-registry

Town and Country Planning Act 1990

www.legislation.gov.uk/ukpga/1990/8/contents

Town and Country Planning Act (General Permitted Development) (England) Order 2015

www.legislation.gov.uk/uksi/2015/596/contents

National Planning Policy Framework

www.gov.uk/government/publications/national-planning-policy-framework--2

Planning Practical Guidance

www.gov.uk/government/collections/planning-practice-guidance

Appendix 1

What we **can** investigate - What is a breach of planning control?

A breach of planning control occurs when operational development (building or other works) or a material change of use of land, or a building takes place without planning permission. Examples of breaches of planning control are:

- Not building in accordance with approved plans (following the grant of planning),
- Failure to comply to conditions attached to a planning permission,
- Unauthorised works to listed buildings,
- Unauthorised demolition within a conservation area,
- Unauthorised works to trees subject of a Tree Preservation Order or in a conservation area,
- Unauthorised advertisements,
- Unauthorised changes of use,
- Using a mobile home as a residence,
- The formation of a new vehicular access or the alteration of an existing vehicular access onto a trunk road or a classified road (an A, B or C class road).
- Untidy Land

Appendix 2

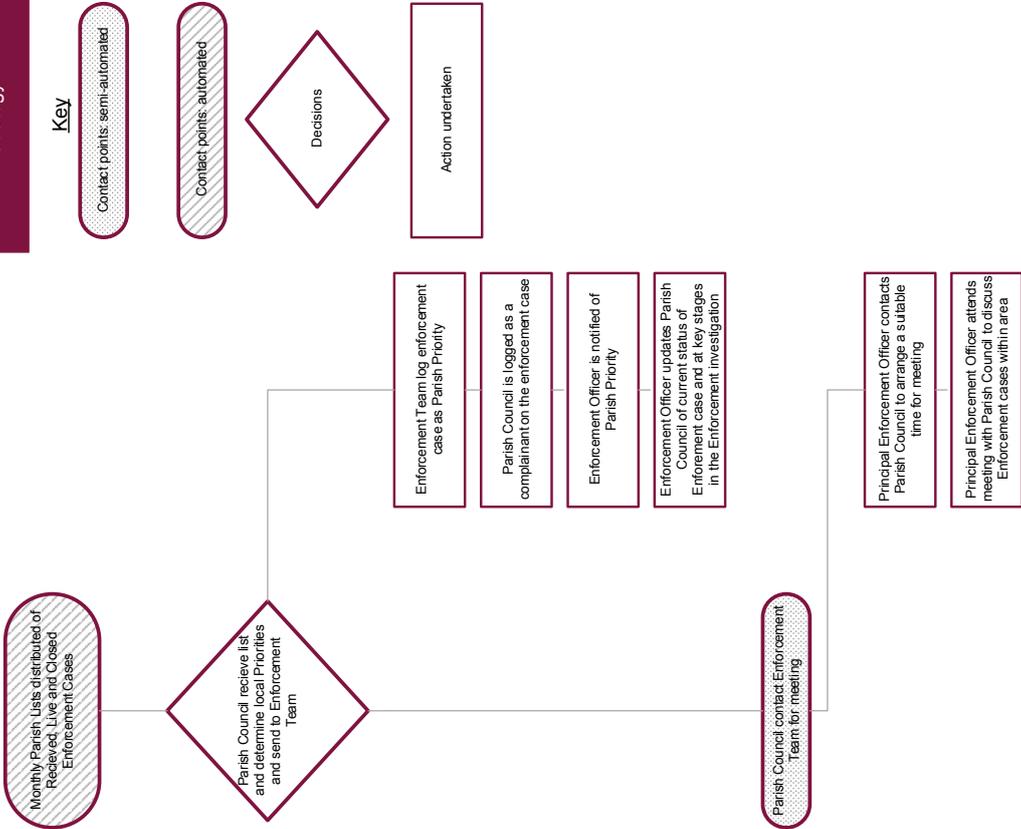
What we **cannot** investigate – Matters that are not breaches of planning control.

Examples include:

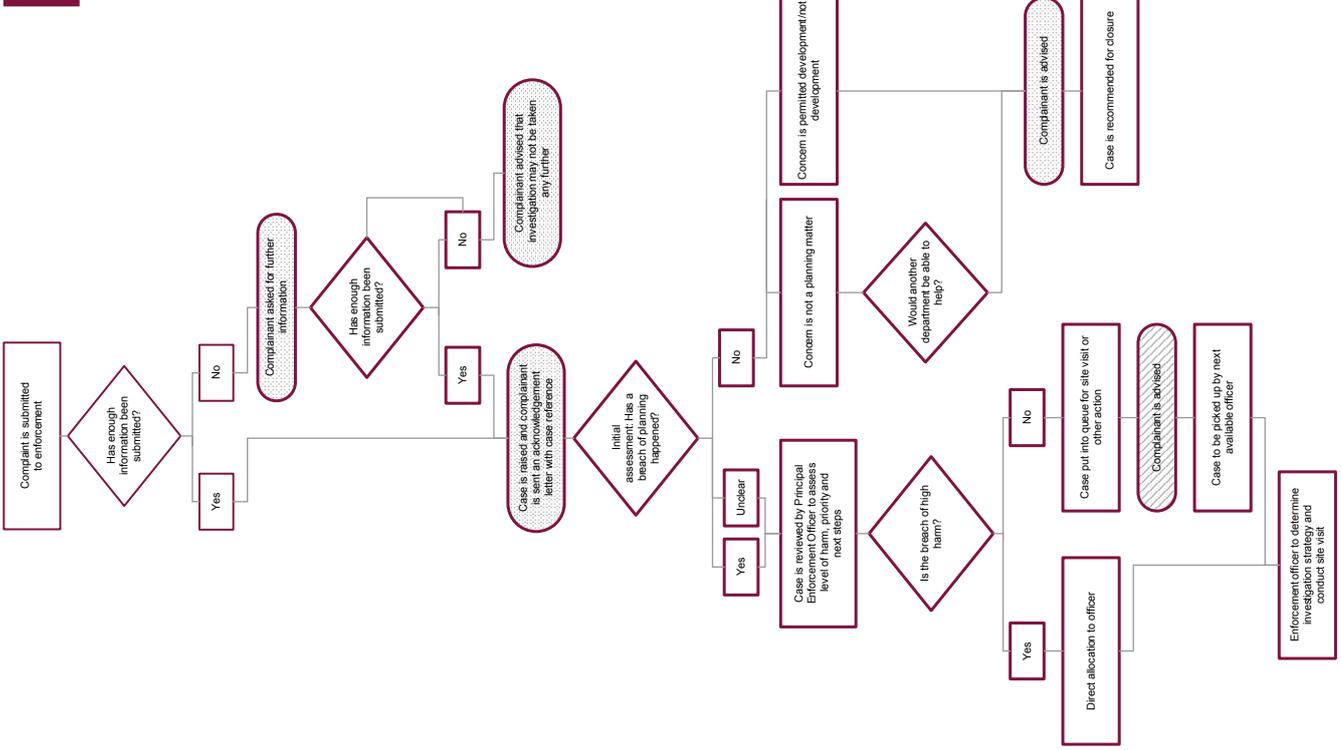
- Noise, bonfire or light nuisances,
- Fly tipping,
- Construction,
- Works undertaken to Public Rights of Way,
- Internal works to a building that is not a listed building,
- Obstruction and/or bins left on a highway, pavements or public right of way,
- Parking commercial vehicles on the highway or on grass verges,
- Parking caravans on residential driveways or within the curtilage of domestic as long as they are incidental to the enjoyment of the property,
- Operating a business from home, where the residential use remains the primary use of the property and there is no significant impact on residential amenity or the character of the area,
- Boundary or land ownership disputes – these are a civil matter and cannot be controlled by planning legislation,
- Covenants imposed on property Deeds,
- Any development that is deemed to be 'permitted development' under the Town and Country Planning (General Permitted Development) (England) Order 2015 or in any statutory instrument revoking and re-enacting that Order, i.e. where it does not need the permission of the Council. Details and information regarding Permitted Development can be viewed via the Planning Portal's interactive house - Planning Portal Interactive House ,
- The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road where that access is required in connection with development permitted,
- Clearing land of overgrowth, bushes or trees (provided the trees are not subject to a Tree Preservation Order or within a conservation area),
- Advertisements that are either excepted from deemed or express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(as amended),
- Dangerous structures – these are dealt with by the Council's Building Control Division,

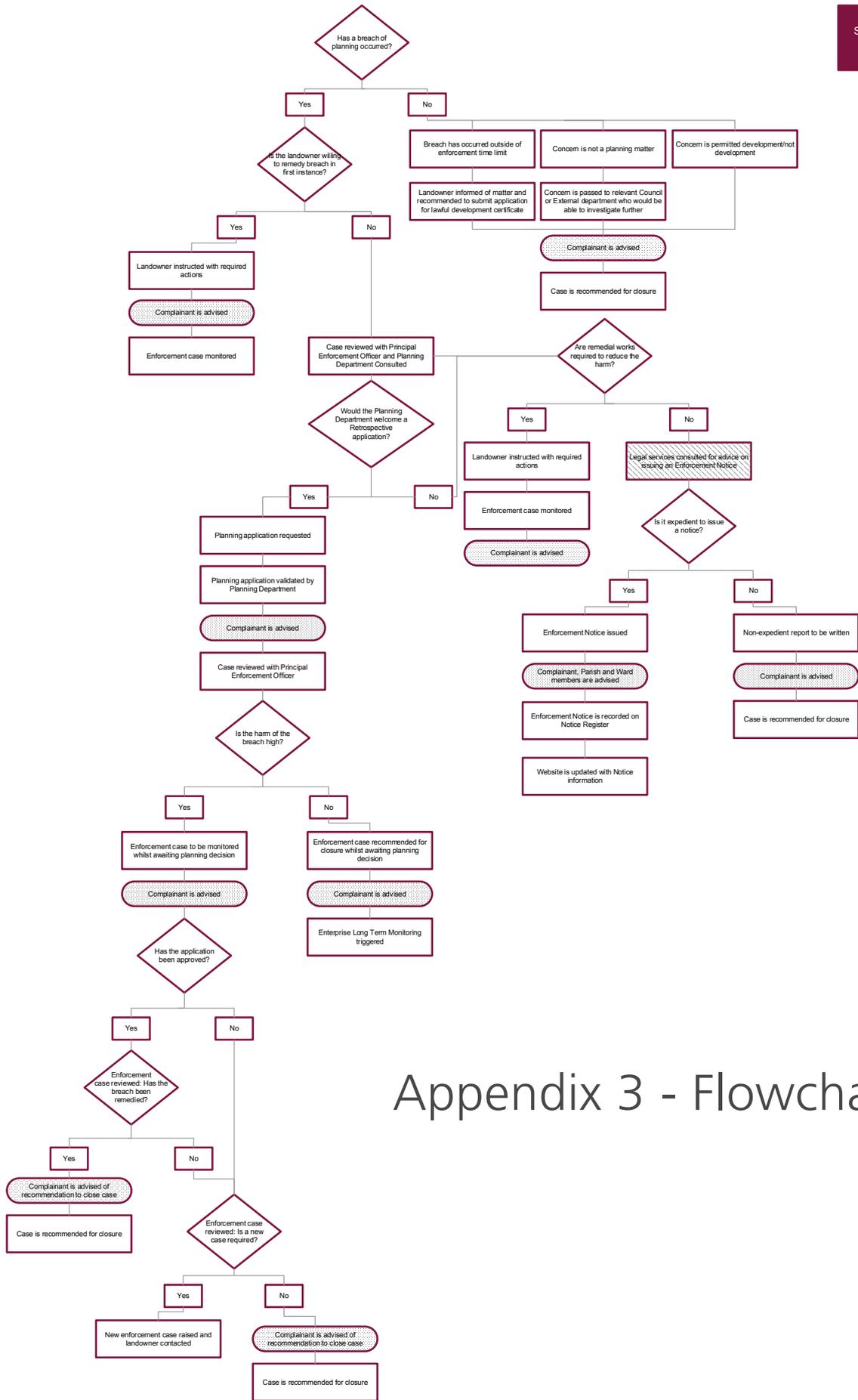
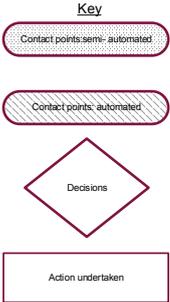
Appendix 3 - Flowcharts

Parish Communication Strategy



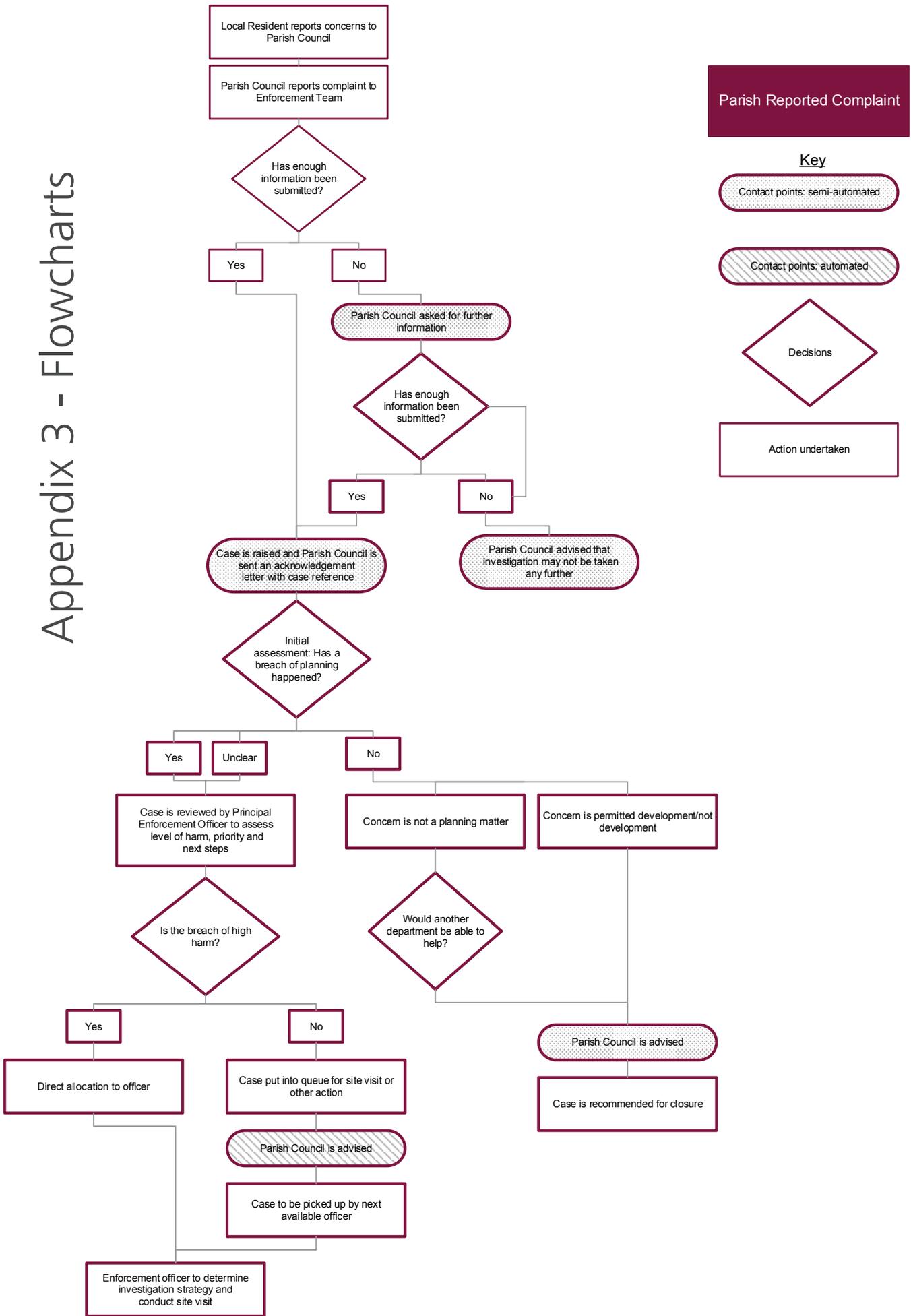
Stage 1: Initial Investigation





Appendix 3 - Flowcharts

Appendix 3 - Flowcharts



Parish Reported Complaint

Key

Contact points: semi-automated

Contact points: automated

Decisions

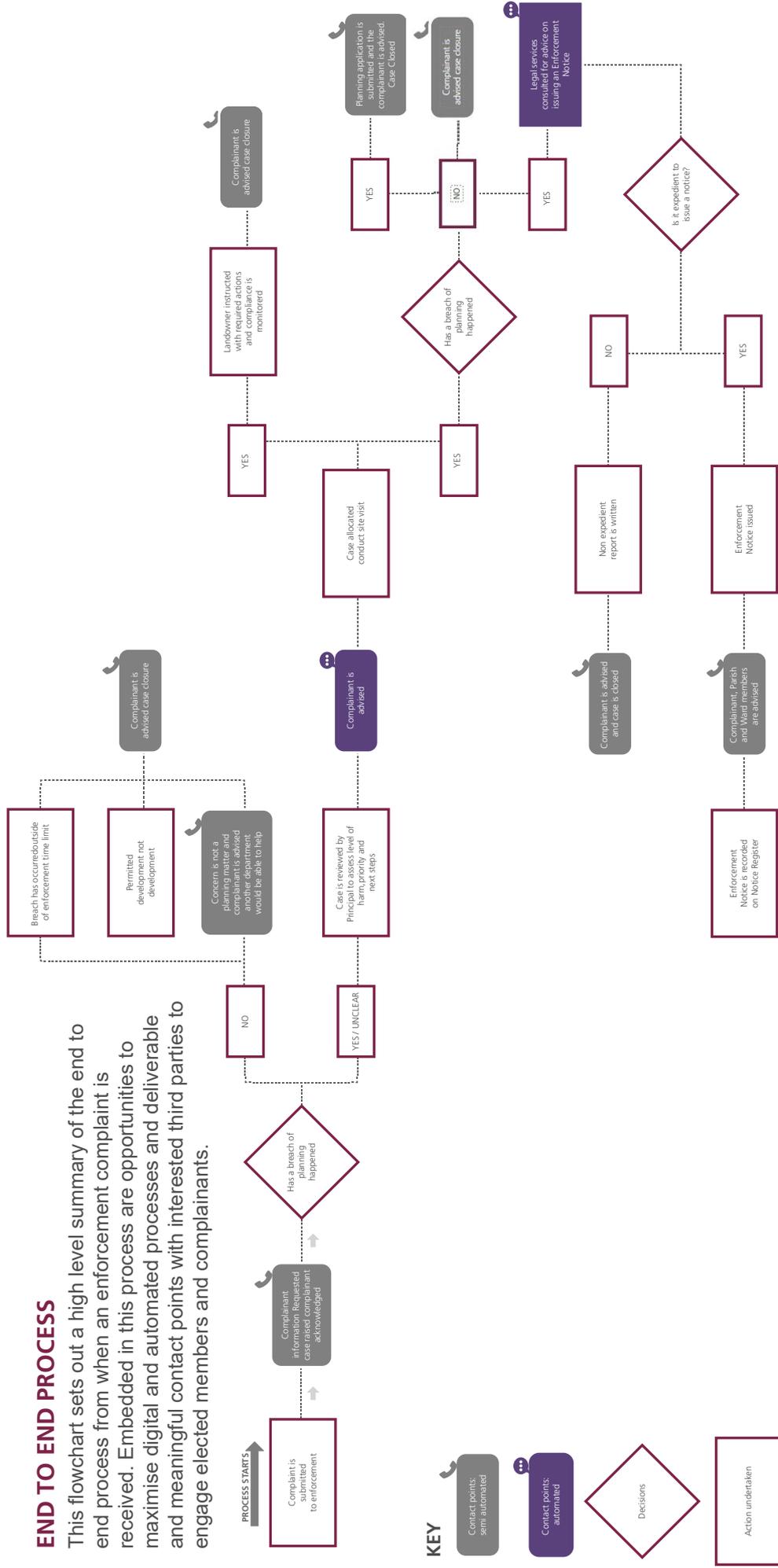
Action undertaken



Appendix 3 - Flowchart End to End Process

END TO END PROCESS

This flowchart sets out a high level summary of the end to end process from when an enforcement complaint is received. Embedded in this process are opportunities to maximise digital and automated processes and deliverable and meaningful contact points with interested third parties to engage elected members and complainants.

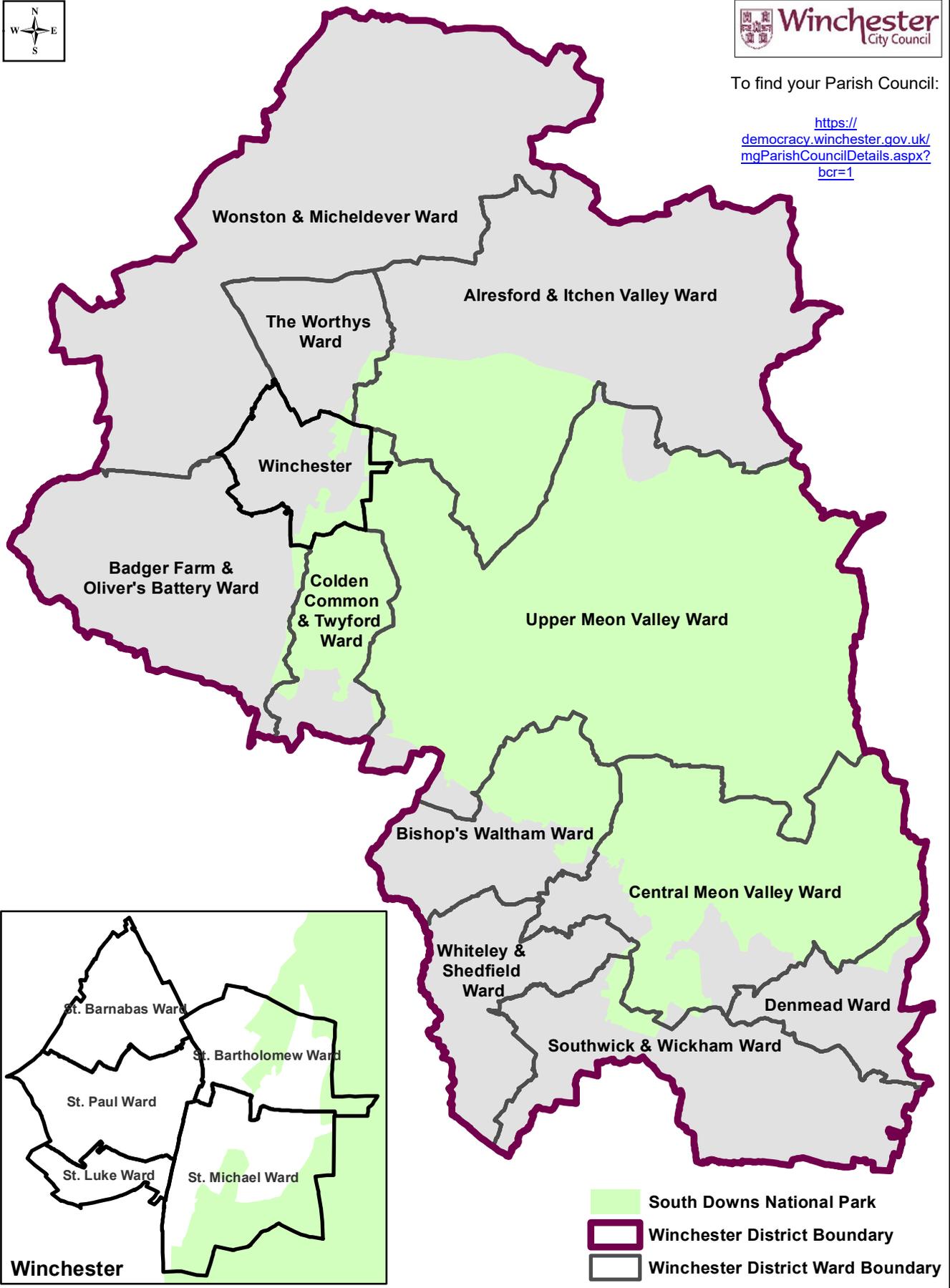


Appendix 4



To find your Parish Council:

[https://
democracy.winchester.gov.uk/
mgParishCouncilDetails.aspx?
bcr=1](https://democracy.winchester.gov.uk/mgParishCouncilDetails.aspx?bcr=1)



Appendix 4 - Maps

Scale: 1:160,000
Date: 28/03/2024
Drawn: CSHI
Dept: IT

Winchester District Ward Map

© Crown copyright and database rights 2024 OS AC0000809217. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

We would like to give thanks and appreciation to the following Parish Councils and members for their involvement in the review of the Local Enforcement Plan:

- Councillor Jackie Porter, Cabinet Member for Place and Local Plan
- Councillor Loraine Rappe, Wickham Parish Council Member
- Councillor Sue Wood, Sparsholt Parish Council Chair
- Councillor Eric Bodger, Curdridge Parish Council Member
- Councillor Maggie Hill, Colden Common Parish Council Member
- Councillor Paula Langford-Smith, Parish Councillor for Denmead
- Councillor Kevin Andreoli, Denmead Parish Council Member
- Councillor Francesca Byrne, Shedfield Parish Council
- Councillor Margaret Jones, Shedfield Parish Council
- Ailsa Duckworth, Clerk - Shedfield Parish Council
- Councillor Carolyne Trew, Boarhunt Parish Council
- Councillor Timothy Hunt, Compton and Shawford Parish Council Member
- Councillor John Godbold, Badger Farm Parish Council
- Councillor Rona Blundell, Olivers Battery Parish Council
- Brendan Gibbs, Clerk - Olivers Battery Parish Council
- Councillor Ian Herring, Otterbourne Parish Council Member





Winchester
City Council