

DEVELOPMENT, ECONOMIC AND CULTURAL SERVICES

Listed Buildings Enforcement Policy

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EXECUTIVE SUMMARY

This Policy provides guidance to officers, businesses and the general public on the range of options available to achieve compliance with listed building control enforced by North Kesteven District Council.

This Policy addresses the Council's approach to enforcing breaches of listed building control only. Enforcement of breaches of planning control and advertisement control are explored in more detail in other policies. These policies are available at www.n-kesteven.gov.uk.

The Council's primary objective is to achieve regulatory compliance. Where it becomes necessary to take formal action in respect of breaches of listed building control, the Council will ensure such action is taken. This Policy has been written in accordance with the Council's Corporate Enforcement Policy, and therefore the general enforcement principles outlined in that policy have not been included.

There are a wide range of enforcement tools available to the Council to remedy breaches of listed building control, with prosecution and 'direct action' being the most serious. The Council will always choose an enforcement sanction that is commensurate with the breach of listed building control to which it relates.

This policy is built around a process of escalation. In most circumstances the Council will only issue a formal notice where a breach of listed building control or conservation area control has caused or is likely to cause material loss or harm. Consideration will also be given to whether the actions of those responsible for a breach of listed building control have endangered the health, safety or wellbeing of people or the environment.

All of the Council's decisions will have regard to the following Government guidance and codes of practice:

- National Planning Policy Framework 2012, and all associated Planning Practice Guidance
- Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings (2016)
- The Town and Country Planning Act 1990 Section 215: Best Practice Guidance
- The Regulators' Code (2014)
- The Code for Crown Prosecutors (2013, and all future amendments)
- The Human Rights Act 1998
- The Equality Act 2010

1 Key principles of listed building control

1.1 What is a listed building?

Historic buildings are a finite resource that cannot be replaced, and they make a significant contribution to the character and prosperity of their surroundings.

It is vitally important that these historic buildings are protected and preserved for the benefit of future generations. Many historic buildings are protected by being included on the National Heritage List for England. Historic England is responsible for determining which buildings should be included on the 'list'. The practice of 'listing' buildings was introduced in July 1948.

There are approximately 374,000 buildings on the 'list', including all buildings built before 1700 which still reasonably resemble their original condition, and most buildings constructed between 1700 and 1840. Buildings constructed after 1840 are included on the list if they are considered to be of sufficient quality or interest. There are approximately 1000 listed buildings in North Kesteven. In order to qualify for the list a building must be at least 30 years old, and have some special historic or architectural importance.

Listed buildings are separated into 3 different categories or 'grades':

- Grade I listed buildings are those considered to be of exceptional interest, and account for 2.5% of all listed buildings
- Grade II* listed buildings are particularly important buildings of more than special interest, and account for 5.5% of all listed buildings
- Grade II listed buildings are buildings of special interest, and account for the remaining 92% of all listed buildings.

These buildings by virtue of their inclusion on the list benefit from enhanced protection by the planning system. In order to preserve their character and value, these additional planning controls effectively restrict owners of listed buildings from carrying out certain alterations and/or repairs without first obtaining consent from their Local Planning Authority.

1.2 Identifying what is 'listed'

For all categories of listed buildings both inside and outside features are protected, provided that these features are of historic or architectural importance. The listing of buildings is a complex issue, as in most cases it is not only the building itself that is protected, but also the land that surrounds the building. Additionally, the 'listing' details held by Historic England in most cases do not include maps, drawings or photographs; it can often therefore be difficult to establish precisely what is listed. The quality of information available on each listing can vary considerably, however in all cases the 'principal building' must be identified and described.

In addition to the 'principal building', the following additional features will also be subject of the listing:

- any object or structure fixed to the building, and
- any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948.

Identifying the curtilage of a listed building can be problematic where there is no map of the listing available. Unlike curtilage issues that arise in planning matters, the curtilage of a listed building is a matter of fact and cannot be assessed subjectively.

1.3 Listed building control

The practice of 'listing' buildings began in July 1948, with newer buildings continuing to be listed where they meet the necessary criteria. The purpose of listing buildings is to ensure that they are afforded additional protection by legislation; existing planning controls do not adequately safeguard such buildings from potentially harmful alterations or demolition. These additional controls are particularly necessary where 'permitted development' is concerned, and also where internal works are carried out that in normal circumstances would not be defined as 'development'. Local Planning Authorities have a statutory duty to protect listed buildings in their area.

1.3.1 Listed building consent

National and local planning policies provide a framework that seeks to preserve the character of the historic environment, and specifically listed buildings and conservation areas. Residents who wish to carry out certain works to a listed building are required to submit an application for 'listed building consent' prior to the works taking place. Works that require consent include any works that relate to the demolition of a listed building, or works for the alteration of a listed building in any manner that would affect its character as a building of special architectural or historic interest. Such alterations can affect a building's character even where the works undertaken are minor or only affect the internal character of a building.

Applications for listed building consent in North Kesteven are determined by the District Council. As listed buildings are a finite resource, the Council when assessing an application will carefully consider the impact of any proposed works against the building's architectural and historic interest.

As the conservation of listed buildings is a specialised subject, the Council recommends that residents seek professional advice from a conservation specialist prior to carrying out any works. This advice can be sought from the Council's Conservation Officer.

2 Legislation and Government Guidance

2.1 Primary legislation

Breaches of planning control are defined by the Town and Country Planning Act 1990. However, the primary legislation that deals with listed building control is the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 7 of this Act states:

"no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised."

Contravention of the above is a criminal offence under section 9 of the Act. Section 9 also creates the offence of failing to comply with a condition subject to which consent has been granted.

"If a person executing or causing to be executed any works in relation to a listed building under a listed building consent fails to comply with any condition attached to the consent, he shall be guilty of an offence."

Unlike breaches of planning control, a breach of listed building control is a criminal offence. To undertake works to a listed building that affect its character, without first obtaining listed building consent is a criminal offence under section 9 of this Act. Whilst consent can be granted after the works have been carried out, this consent cannot be retrospective and as such the person responsible for the unauthorised works is still liable for the original offence.

Like breaches of planning control, if a breach of listed building control occurs and the building is subsequently sold, liability for remedying the breach is transferred to any subsequent owners. However, unlike breaches of planning control breaches of listed building control never become lawful, and therefore never benefit from immunity from enforcement action. Future owners cannot be prosecuted for the original offence, yet they could still be required to remove any unauthorised works and reinstate the building to its previous, lawful condition. This Act also states that it is a criminal offence to wilfully damage a listed building.

2.2 Government guidance

2.2.1 Planning Policy Guidance

The National Planning Policy Framework 2012, and all associated Planning Practice Guidance, replaces all previous guidance issued by Central Government in relation to listed buildings. This guidance is available at www.gov.uk.

2.2.2 'Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings'

This guidance document was updated in 2016, and provides a useful appraisal of the different enforcement powers available to local authorities when dealing with listed building problems. This document relates to both unauthorised works to listed buildings, and to resolving problems caused by listed buildings that are in poor condition or at risk of being lost. The Council will consult this document when considering listed building issues, and all action taken by the Council will be in accordance with this guidance.

2.2.3 Other useful guidance and legislation

The Council will also ensure that the investigation and enforcement of breaches of listed building control is carried out in accordance with the following additional Government guidance and legislation:

- The Town and Country Planning Act 1990 Section 215: Best Practice Guidance
- The Regulators' Code (2014)
- The Code for Crown Prosecutors (2013, and all future amendments)
- The Human Rights Act 1998
- The Equality Act 2010

Other guidance that relate to breaches of planning control do not apply to listed buildings.

2.3 Case law and legal precedent

The UK planning system has generated a significant amount of case law. Some of this case law relates to listed building control. Case law derived from the High Court and above sets legal precedent which dictates how the law should be interpreted by decision makers and investigators. Legal precedent is subject to continual change as new cases are put before the Courts, and it is in the best interests of the Council to be well informed on this subject as such changes can significantly enhance or impair the actions of the Council when dealing with breaches of listed building control.

3 Investigating breaches of listed building control and conservation area control

Upon receipt of an enquiry officers will initially undertake research of the Council's planning records, to establish the history of the land and building(s) under investigation and what listed building consents have already been granted. This research may reveal that no breach of listed building control has occurred; however in most cases further investigation will be necessary.

3.1 Site visits

In all but the most straightforward cases, officers will undertake a site visit to try to establish whether a breach of listed building control has taken place. The majority of site visits are made without prior arrangement, and officers are required to identify themselves as enforcement officers as soon as they enter land.

3.1.1 Powers of Entry

The Council's planning enforcement officers have powers of entry under the provisions of the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990, to enter premises for the purpose of investigating alleged breaches of listed building control. Where site visits are made and no occupier can be found at the time of visit, officers have powers to inspect the land in their absence. Officers do not have powers to force entry into any dwelling house. Where appropriate, officers will leave a calling card requesting the occupier of the land to contact the Council.

If during a site visit officers are refused entry onto land or buildings, the Council has the right to apply to the Magistrates' Court for a warrant to enter the property. This course of action will only be taken in cases where it is considered both necessary and proportionate to the alleged breach under investigation.

Whilst on site, officers may ask questions of any present occupiers, and may take photographs or measurements. Any information gathered will be used to ascertain whether a breach of listed building control has taken place. If a breach has occurred, this information will be used to assess the most appropriate course of action to resolve the matter.

3.2 Evidence gathering

Officers may use a variety of other methods to determine whether or not a breach of listed building control has taken place, including obtaining statements from any witnesses to an alleged breach, consultation with the Council departments and research of the Council's records. The Council may also seek clarification from case law or obtain legal advice where the subject of an investigation is complicated or contentious.

3.2.1 Interviewing suspected offenders

The Council will question suspected offenders in accordance with the requirements of the Police and Criminal Evidence Act 1984. This course of action will only apply in cases where the person to be questioned is believed to be directly responsible for the breach of listed building control. All but the most basic information must be obtained 'under caution', and where interviews under caution are considered necessary they will preferably be tape recorded and held at the District Council Offices in Sleaford.

Interviews will only be recorded in writing in extenuating circumstances, such as where it is not possible to delay questioning of a suspected offender.

3.2.2 Requisitions for information

As breaches of listed building control are criminal offences, the Council has no powers to issue planning contravention notices. Where specific information is required in relation to unauthorised works to a listed building, an interview under caution must take place to establish these facts. Informal questioning will suffice only in cases where the person being questioned is not believed to have undertaken the unauthorised works, such as the new owner of a listed building who has inherited responsibility for the unauthorised works from the previous owner/occupier.

Where information is required purely in relation to interests in land, the Council is permitted to issue formal notices requiring this information. These notices may be issued under section 330 of the Town and Country Planning Act 1990, and section 16 of the Local Government (Miscellaneous Provisions) Act 1982.

3.3 Statutory duties of the enforcement function

The Council is responsible for the investigation of breaches of listed building control occurring within North Kesteven. The Secretary of State also has powers to investigate and enforce against breaches of listed building control where it considers such action necessary.

The Council has a statutory duty to investigate alleged breaches of listed building control, to determine whether a breach has taken place and to also determine whether enforcement action is necessary. Whilst breaches of listed building control are criminal offences, the Council does not have a duty to take enforcement action. Enforcement action will only be taken where it is considered to be in the interests of the public. Enforcement decisions will only be made following an assessment of 'expediency' (see section 4 of this Policy).

3.3.1 Maladministration

Failure to properly assess the expediency of a breach of listed building control may constitute 'maladministration' by the Council. In these circumstances the Council is liable to investigation and action by the Local Government Ombudsman. Where such an investigation determines that maladministration has occurred, and that this has led to injustice, the Council may be required to pay compensation to any parties affected.

4 Principles of enforcement decision making

4.1 Assessing 'expediency' of enforcement action

When considering the use of enforcement action, the Council must ensure it assesses the expediency of such action. However, unlike enforcement action taken in respect of breaches of planning control, listed building control relates to *works* to the building in question. *Works* to a listed building may not constitute development as defined by the Town and Country Planning Act 1990, and may include alterations or additions to the building that would not require planning permission. The test that confirms whether listed building consent is required is based on the impact of the works on the historic and/or architectural character of the building. It is only those works that satisfy these criteria that will require the benefit of listed building consent.

Unlike expediency assessments for breaches of planning control, when assessing expediency of enforcement action in the context of listed buildings the Council need not take into account local development plan policies or material considerations. Development plan policies relate only to matters that constitute 'development'; therefore where *works* have been carried out that constitute a breach of listed building control only, these policies would not apply. Where a breach of planning control has also occurred, any unauthorised development should be assessed against the Council's Development Plan. The assessment of breaches of planning control is explained further in the Council's Planning Enforcement Policy.

In all cases the Council's Conservation Officer will be consulted, and where unauthorised works have been carried out to a grade I or grade II* listed building, the Council will seek the views of Historic England prior to concluding its assessment of expediency.

4.2 Factors not taken into account when assessing expediency

When assessing expediency for unauthorised works to a listed building, the Council must consider only the effects of the unauthorised works on the character of the building as one of special architectural or historic interest. When assessing expediency in respect of a listed building, the Council will not take into account the following factors:

- Breaches of restrictive covenants
- Private disputes
- Competition between businesses
- Damage to property
- Boundary or other land disputes
- Reduction in value of land or property

5 Use of enforcement powers

The Council has a limited range of enforcement options that may be utilised when resolving a breach of listed building control. Following a full investigation, a decision will be made by an appropriate officer regarding enforcement action. In accordance with the Council's Corporate Enforcement Policy, enforcement decisions will be made based on the circumstances and merits of each individual investigation. When a decision has been reached, Ward Members will be notified of the Council's intended course of action.

The Council has a statutory duty to hold and maintain an Enforcement Register. The enforcement register is a public record and can be viewed at the District Council Offices. Any enquiries regarding this register should be made to the Compliance and Enforcement Team Leader

Any action taken in relation to the enforcement of breaches of listed building control will be in full accordance with both this policy and the Council's Corporate Enforcement Policy.

5.1 No action

No action will be taken by the Council if it is determined that no breach of listed building control has taken place. Similarly no action will be taken where following an assessment of expediency it is determined that any unauthorised works carried out are acceptable and sympathetic to the character of the listed building. In these circumstances land

owners and/or occupiers will be advised that an application for listed building consent should be submitted to regularise the outstanding breach, and a note shall be added to the Council's land charges register in respect of the land in question.

5.2 Enforcement action

The Council's approach to planning enforcement is built around a process of escalation. However, breaches of listed building control cannot necessarily be resolved in this way; as the powers available are more limited and breaches of listed building control are criminal offences, prosecution does not have to be used as a last resort. The enforcement options available to the Council, and the circumstances where they may be used are explained below:

5.2.1 Informal action

Informal resolution may be by way of listed building consent being obtained for the unauthorised works, or by the responsible party taking steps to voluntarily remove the breach of listed building control within a specified deadline. The Council may not choose to take formal action in cases where either:

- The breach of listed building control is considered likely to be granted consent if an application were submitted; or
- The breach of listed building control is reversible

The time allowed will be reasonable and will take into account the amount of work required, the seriousness of the contravention and the implications of non-compliance. All requests will be made by the Council in writing.

Where it is considered that listed building consent would be granted for the unauthorised works and there would be no need to impose further conditions, the Council will invite an application for consent and no further action will be taken.

If the Council requests that the breach of listed building control should be removed, detailed advice will be given explaining exactly what steps should be taken to reinstate the building to its previous condition. This may include the nature of materials used, and advice on the correct construction methods that should be implemented to achieve a finish that matches the previous condition as closely as possible. If these steps are not taken, the Council will consider taking formal enforcement action to secure compliance.

5.2.2 Listed Building Enforcement Notice (LBEN)

The Council has powers to issue a listed building enforcement notice to remedy a breach of listed building control. This is the only statutory notice available to the Council that can require unauthorised works to be regularised. This notice is used for both works carried out without listed building consent, and for non compliance with any conditions or limitation subject to which listed building consent has been granted. In most cases an LBEN will only be issued where attempts to negotiate an informal resolution have been unsuccessful.

The listed building enforcement notice provides an alternative to prosecution where it is not considered to be in the public interest, and ensures that where possible, the former condition of the building can be satisfactorily restored. However this notice cannot require improvement of the condition of the building; if the Council considers that a listed building is in poor condition, it must assess whether any additional powers should be used to address this issue. These additional powers are explained in Chapter 6 of this Policy.

Any recipient of a notice has a right to appeal against it to the Secretary of State for Communities and Local Government.

5.2.3 Emergency Measures

Where a breach of listed building control is in progress and there is an opportunity for the Council to take action to prevent any significant or severe harm being caused, the Council has powers to apply to the County Court or High Court for a listed building injunction. There are no powers available to local authorities to issue 'stop notices' to compel breaches of listed building control to stop.

Injunctions may only be sought in exceptional circumstances, such as where the risk of irretrievable harm is real or considered to be imminent.

5.2.4 Direct Action

Where the Council has issued a listed building enforcement notice and those responsible for compliance have failed to comply, the Council has powers to carry out the works specified in the notice. This is referred to as 'direct action'. Direct action is a useful tool, and the Council is able to recover from those responsible any expenses incurred as a result of direct action. Any unpaid expenses can be either pursued in the County Court or registered as a land charge payable when the property is sold.

5.2.5 Cautions

In some instances the Council may have sufficient evidence to prosecute an individual or business for a breach of listed building control, yet it may not be considered to be in the public interest to do so. Where this applies, the Council may offer a simple caution to the offender(s). A simple caution is not a criminal conviction, rather an admission of guilt, and remains on the Council's Cautions Register for three years. If further similar offences are committed within this three year period, the Council is permitted to bring the caution to the attention of the Court on conviction. This may result in a harsher sentence for the latter offence(s). A caution will likely be administered in addition to direct action.

If any individual or business refuses to accept a caution, the Council will review the case and prosecution may ensue.

5.2.6 Prosecution

The Council will only prosecute an individual or business for a breach of listed building control in the following circumstances:

- The unauthorised works carried out are irreversible (eg. removal of large parts of the building or complete demolition);
- The party responsible has caused wilful damage to the listed building;
- The recipient of a listed building enforcement notice has deliberately or persistently failed to achieve compliance;
- The party who carried out the unauthorised works has endangered, to a serious degree, the health, safety or well being of people or the environment; and/or
- The party responsible for the breach of listed building control has assaulted or obstructed an authorised Officer in the course of their duties.

Prosecution may not always be the most suitable course of action, particularly where other methods could be used to resolve the breach of listed building control. Where it is possible to reinstate the building to its former condition, the Council will normally prefer to issue a listed building enforcement notice. Prosecution alone cannot restore the listed building, and the Courts have no powers to require restoration following successful conviction. Prosecution is therefore most suitable in circumstances where

the actions of the party responsible have resulted in irreversible harm or total loss of a listed building.

The Council will only prosecute the party responsible for the breach of listed building control. Where unauthorised works are discovered following transfer of ownership of the building, any future owners whilst not liable to prosecution may still receive a listed building enforcement notice and be required to restore the building to its previous, lawful condition.

The Council will only pursue a prosecution where there is a realistic prospect of conviction, and where it is in the interests of the wider public to do so.

6 Other powers to preserve listed buildings

Breaches of listed building control are a significant concern to the Council. However the Council also regularly encounters listed buildings that are in disrepair or have been left to deteriorate over time. These buildings pose a significant concern to the Council, and can be very problematic due to the expense required to preserve them.

Listed buildings are generally far more expensive to maintain than unlisted buildings, due to the need to employ specialist contractors and use traditional materials and construction methods. These additional costs can lead to listed buildings being insufficiently maintained, causing them to fall into disrepair. The Council has a duty to ensure listed buildings are preserved, and has a variety of powers to help prevent these finite resources from being lost. Some of these powers are listed below; a full appraisal of the powers available is available in the guidance document "*Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings (2016)*".

6.1 Urgent works notices

Urgent works notices can be issued under section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Such notices can be used to require immediate works to take place to protect a listed building from further deterioration, and can only be issued where a building is unoccupied, or where the part of the building requiring urgent attention is not in use.

An urgent works notice can require only works that are immediately necessary, including:

- Making the building wind or watertight
- Enabling the building to dry out
- Preventing structural collapse; and
- Preventing vandalism and theft

A notice should require the absolute minimum works at a minimum cost necessary to meet these objectives, and must allow the owner at least 7 days for compliance.

In the event the notice is not complied with, the Council has powers to complete the works specified in the notice. The Council also has additional powers to reclaim any reasonable costs incurred in carrying out the works specified in the notice.

6.2 Repairs notices

Repairs notices are issued under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and are a precursor to compulsory purchase proceedings. Repairs notices are intended to secure works for the long-term preservation of a listed building. They should specify the use as far as practicable of matching materials, methods of construction and best conservation practice, in order to preserve the character, appearance and integrity of the building. Advice and good practice are set out in a range of specialist English Heritage publications accessible at www.historicengland.org.uk.

A repairs notice can be issued on any listed building whether occupied or unoccupied, provided that it meets the necessary criteria.

If after 2 months from the date of service of the repairs notice no progress has been made, the Council can initiate compulsory purchase proceedings to acquire the building. By acquiring the building the Council takes on full responsibility for the repairs specified in the notice, and can choose to either retain ownership of the building, or transfer the building to another organisation or charitable trust who will take on responsibility for the outstanding repairs.

The Council has no direct action powers in the event of non compliance with a repairs notice; the only course of action available is compulsory purchase.

6.3 Section 215 notices

This notice is issued under section 215 of the Town and Country Planning Act 1990, and is a broad power available to local authorities for land or buildings in their area that are adversely affecting local visual amenity.

This power is relatively straightforward when compared with urgent works notices and repairs notices, and can be used on all types of land or buildings where they meet the necessary criteria. This power can be used for listed buildings where the primary concern is its visual appearance rather than its structural integrity. Common examples of works that can be required using this power are window repairs, removal of ivy and other vegetation from a building, and other relatively minor improvements that can significantly improve the visual appearance of a listed building.

In the event the notice is not complied with, the Council has powers to complete the works specified in the notice. The Council has additional powers to reclaim any reasonable costs incurred in carrying out the works specified in the notice.

7 Conservation area control

In addition to listed buildings, conservation areas can be designated in areas where there is a need to protect the historic environment. North Kesteven has 35 conservation areas. The majority of buildings in conservation areas are not listed, however in order to preserve the character of these areas additional controls are necessary that limit certain activities such as alterations and extensions, the display of advertisements and works for the maintenance or removal of certain trees. These additional controls are explained in more detail in the Council's Planning Enforcement, Control of Advertisements and Trees Policies.

'Conservation area consent' is specifically required in relation to demolition:

7.1 Demolition

Within conservation areas, conservation area consent is required to demolish buildings measuring more than 115 cubic metres, and to demolish gates, walls or fences that exceed one metre in height and which abut a highway (including a public footpath or bridleway). For all other gates, walls or fences exceeding two metres in height, conservation area consent is also required for their demolition.

'Demolition' in this context equates to the total or substantial destruction of a building or means of enclosure. In general terms, consent will not normally be granted for the demolition of buildings that make a positive contribution to the character or appearance of a conservation area, and consent for demolition will not usually be given until it is known what form any redevelopment will take. These measures are used to prevent unsightly gaps in the street scene spoiling the appearance of conservation areas.

7.2 Enforcement of breaches of conservation area control

Breaches of conservation area control are investigated and assessed in the same way as breaches of planning control. This is explained further in the Council's Planning Enforcement Policy.

8 Reporting breaches of listed building control

8.1 Details required when reporting an incident to the Council

The Council encourages the reporting of suspected breaches of listed building control. Those reporting breaches of listed building control are asked to provide the following information:

- Their name, address and contact details – these details will be kept confidential
- The precise location where the suspected breach of listed building control is taking place
- The nature of the unauthorised works to the listed building
- When the alleged breach occurred
- Details of the person(s) responsible for the breach, if known
- Any planning history the complainant may be aware of

In accordance with the Data Protection Act 1998, the Council will not disclose any information relating to the identity of a complainant. However, as any occupiers of land or buildings close to the breach of listed building control will usually be the most affected, it is possible that an individual subject of an investigation will make their own assumptions as to who may have brought the matter to the attention of the Council.

8.2 Prioritisation of enquiries

The Council aims to acknowledge all enquiries in writing within two working days, unless the person reporting the matter states they do not wish to receive written communication. Some breaches of listed building control can take a long time to resolve, however in all cases the person who reported the alleged breach will be kept informed at each stage of an investigation.

To ensure the most efficient use of Council resources, all enquiries will be priority assessed. This approach ensures that those breaches of listed building control that are causing the greatest harm are acted upon as quickly as possible. Less harmful breaches of listed building control will be afforded a lower priority, however in all cases

the Council will aim to undertake a site visit within no more than ten working days. Some of the factors considered when prioritising an enquiry are:

- Whether the works are complete or are in progress
- Whether the listed building is at imminent risk
- Whether there is also a breach of planning control taking place
- Whether the alleged works involve any demolition, whole or in part

8.3 Anonymous enquiries

The Council will investigate anonymous enquiries only where there is no need to exchange further information with the complainant. As breaches of listed building control are often criminal offences, there will usually be some need for further discussion with the complainant in all but the most straightforward of investigations. Without a named complainant the actions available to the Council are limited; criminal prosecutions are unlikely to be successful in the absence of any named witnesses to an incident.

The Council will not investigate allegations where it suspects the enquiry is malicious or spurious.

9 Legal status of this Policy

This Policy was approved by the Council's Executive Board on 26 July 2012.

This policy is intended to provide guidance for officers, businesses, consumers and the public. It does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest.

10 How to obtain a copy of this Policy or make comments

This Policy is available on the Council's website at:

www.n-kesteven.gov.uk

If you would like a paper copy of the Policy and/or you would like to comment on the Policy, please contact us by:

- e-mail: customer_services@n-kesteven.gov.uk
- telephone: 01529 414155
- in writing to the Compliance and Enforcement Team Leader, C/o Development, Economic and Cultural Services, North Kesteven District Council, Kesteven Street, Sleaford, Lincs, NG34 7EF

11 Review of this Policy

This Policy will be reviewed annually.

12 Useful links

12.1 Council web links

To make a complaint to North Kesteven District Council

www.n-kesteven.gov.uk/complaints

12.2 Legislation

The Planning (Listed Buildings and Conservation Areas) Act 1990

<http://www.legislation.gov.uk/ukpga/1990/9/contents>

Human Rights Act 1998

<http://www.legislation.gov.uk/ukpga/1998/42/contents>

Equality Act 2010

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

12.3 National guidance

The National Planning Policy Framework 2012

<http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/>

Stopping the Rot: A Guide to Enforcement Action to Save Historic Buildings (2016)

<https://historicengland.org.uk/images-books/publications/stoppingtherot/>

The Town and Country Planning Act 1990 Section 215: Best Practice Guidance

<http://www.communities.gov.uk/publications/planningandbuilding/townplanningact>

The Regulators' Code (2014)

<https://www.gov.uk/government/publications/regulators-code>

The Code for Crown Prosecutors (2013)

https://www.cps.gov.uk/publications/code_for_crown_prosecutors/