

**London Borough of Enfield
Planning Enforcement Plan
2021**

1.0 Introduction:

- 1.1 This plan sets out the Council's approach to dealing with breaches of planning regulation. It provides information and guidance to residents, developers and those with other interests regarding how the Council will deal with any development that does not accord with the national and local policies or where there is non-compliance with enforcement action already taken.
- 1.2 It seeks to balance the concerns of local people with the rights of owners and sets out the nature and relevant timescales associated with taking enforcement action, where such action is warranted.
- 1.3 Our work will make a positive contribution towards the Councils Corporate Plan in delivering:
- Good homes in well-connected neighbourhoods
 - Sustain strong and healthy communities
 - Build our local economy to create a thriving place
- 1.4 In line with the Councils Customer Experience Strategy we are committed to putting customers at the heart of all our business. We will ensure we communicate with you, work with you and work smartly for you.

2.0 Enforcement Objectives:

- 2.1 Key objectives of the Planning Enforcement Team
1. We are committed to following good enforcement practice in a proactive and reactive way
 2. Robust and effective enforcement of breaches of planning controls ensuring public confidence in the integrity of the planning system
 3. Proportionate, Consistent, transparent and targeted regulation to support the vitality and growth of the economy and local businesses
- 2.2 We encourage Council Officers, Members, Partners, residents and local businesses to report suspected breaches of planning control allowing us to effectively investigate all alleged breaches in a timely manner.

3.0 What is a Breach of Planning Control?

- 3.1 Section 171A of the Town and Country Planning Act 1990 as amended defines a Breach of planning control:

“A breach of planning control is the carrying out of development without the required consents; or failing to comply with the conditions or limitations attached to a consent which has been granted”

- 3.2 Planning breaches will include:

- Unauthorised building work which either fronts a highway or public open space within a Conservation or Article 4 Area
- Unauthorised alterations to Listed Buildings (internal & external).
- Unauthorised felling and lopping of trees, which are the subject of a Tree Preservation Order (TPO), planning condition or in a Conservation Area.
- Unauthorised commencement of development schemes without discharging pre-commencement conditions which cause significant harm to the highway and or neighbouring properties
- Unauthorised flat conversions, conversion of outbuildings/external garages as a separate unit of accommodation and Houses of Multiple Occupation (HMOs).
- Unauthorised breaches of planning conditions, (including Late night opening)
- Unauthorised minor works at residential properties (porches, fences, balustrade, patios)
- Unauthorised advertisements

3.3 Section 171B of the Town and Country Planning Act 1990 sets out specific time periods for different types of breaches of planning control, within which the Council can take formal action. Development will become immune from enforcement if not taken within:

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| • Erection of buildings and other operational development works | - | 4 Years |
| • Change of use to a residential unit | - | 4 Years |
| • Non-compliance with conditions controlling occupation | - | 4 Years |
| • Changes of use of buildings or land | - | 10 Years |
| • Change of Use to HMO (6 + persons) | - | 10 Years |
| • Non-compliance with planning conditions | - | 10 Years |
| • Works to Listed Buildings | - | No time limit |

3.4 There are exceptions to these periods:

- Section 171B(4)(b) of the Town and Country Planning Act 1990, provides for the taking of “further” enforcement action in respect of any breach of

planning control within 4 years of previous enforcement action having been taken in respect of the same breach. This mainly deals with the situation where earlier enforcement action has been taken, within the relevant time-limit, but has later proved to be defective.

- Where there has been deliberate concealment of a breach of planning control, local planning authorities may apply for a planning enforcement order to allow them to take action after the time limits have expired. In such circumstances the courts may find that the time limits do not engage until the breach has been discovered
- Time limits taking action against the damage to or removal of trees covered by a Tree Preservation Order or within a Conservation Area are:
 - Causing damage to a TPO tree - 6 months from the date the damage was discovered.
 - Causing damage to a tree in a Conservation Area - 6 months from the date the damage was discovered
 - Removal/destruction of trees covered by a TPO – no time limit, but before the end of 3 years from the date the removal was discovered.
 - Removal/destruction of trees in a Conservation Area - no time limit, but before the end of 3 years from the date the removal was discovered.
- There are no time limits specified in planning legislation within which we must commence prosecution proceedings.

3.5 What is not a breach of planning control?

Issues reported to the Planning Enforcement Team are not always enforceable under planning legislation. While issues may relate to or be a result of buildings or activity on land, we are not always able to consider action under planning powers. The following are some examples;

- Internal works to a non-listed building;
- Parking of commercial vehicles on the highway
- Land ownership disputes or trespass issues
- Breaches of covenants, Land Registry or Lease agreements
- Temporary structures/fencing associated with building works
- Dangerous structures or other health and safety issues on sites
- Party walls matters
- Works causing damage to a property
- Overhanging bushes/trees

If we receive an enquiry regarding a non-planning matter, we will ensure it is passed to the correct department for review and response.

4.0 Relevant Legislation and Planning Policies

4.1 The relevant planning legislation and planning policies, that will be taken into consideration when assessing an alleged breach of planning control are:

- Town and Country Planning Act 1990 (as amended)
- National Planning Policy Framework
- National Planning Practice guidance
- London Plan
- Development Management Document
- Core Policies document
- Conservation area appraisal documents

5.0 Our approach to dealing with non-compliance

5.1 The Council takes breaches of planning control seriously, particularly if it is done intentionally, or results in significant harm. We will try to negotiate solutions where this is appropriate and possible. We will not however allow this to be a prolonged process and will use the full range of powers to take the most appropriate formal action where necessary. Not all breaches are intentional and any action the Council takes must be proportionate.

5.2 When an enquiry is received, we will generally take a staged approach to the investigation. This will initially involve trying to negotiate a resolution. If this informal approach proves unsuccessful and the breach warrants it, we will then progress to formal enforcement action.

5.3 During the investigation we will consider the following:

- Has development taken place?
- Has the development resulted in a breach?
- Has any harm been caused to neighbours or the surrounding area?
- Can the breach be resolved through negotiation or an application?
- Is it expedient to take formal enforcement action?

5.4 Where attempts to resolve the breach informally through negotiation have failed the Council will take formal action. For this to happen the harm caused by the breach must be serious enough to justify the Council taking this step

5.5 Where there is immediate or serious harm arising from the identified breach, the Council will not hesitate in taking formal action.

6.0 How to report a breach and what happens after it has been reported

6.1 You can report a breach by emailing planning.enforcement@enfield.gov.uk. Or by telephone – 0208 379 3856

Please provide the following information:

- Name, address and contact details (this information will remain confidential)
- Address/location where the alleged breach is occurring
- What is the alleged breach and when did it start?
- Photographs of the alleged breach if possible
- How it's affecting you or your property
- Any details available of who is carrying out the alleged breach

6.2 Enforcement cases are logged for investigation by Priority Rating as a result of the potential harm caused by the alleged breach.

- Priority 1 – A site visit within 1 working day of receiving the enquiry with full or interim enforcement action to be taken within 1 day of the site inspection and complainant updated.
- Priority 2 – A visit within 10 working days of receiving the enquiry, with full or interim enforcement action taken within 10 working days of the site visit and complainant updated.
- Priority 3 - visit within 10 working days of receiving the enquiry, with full or interim enforcement action taken within 20 working days of the site visit and complainant updated.

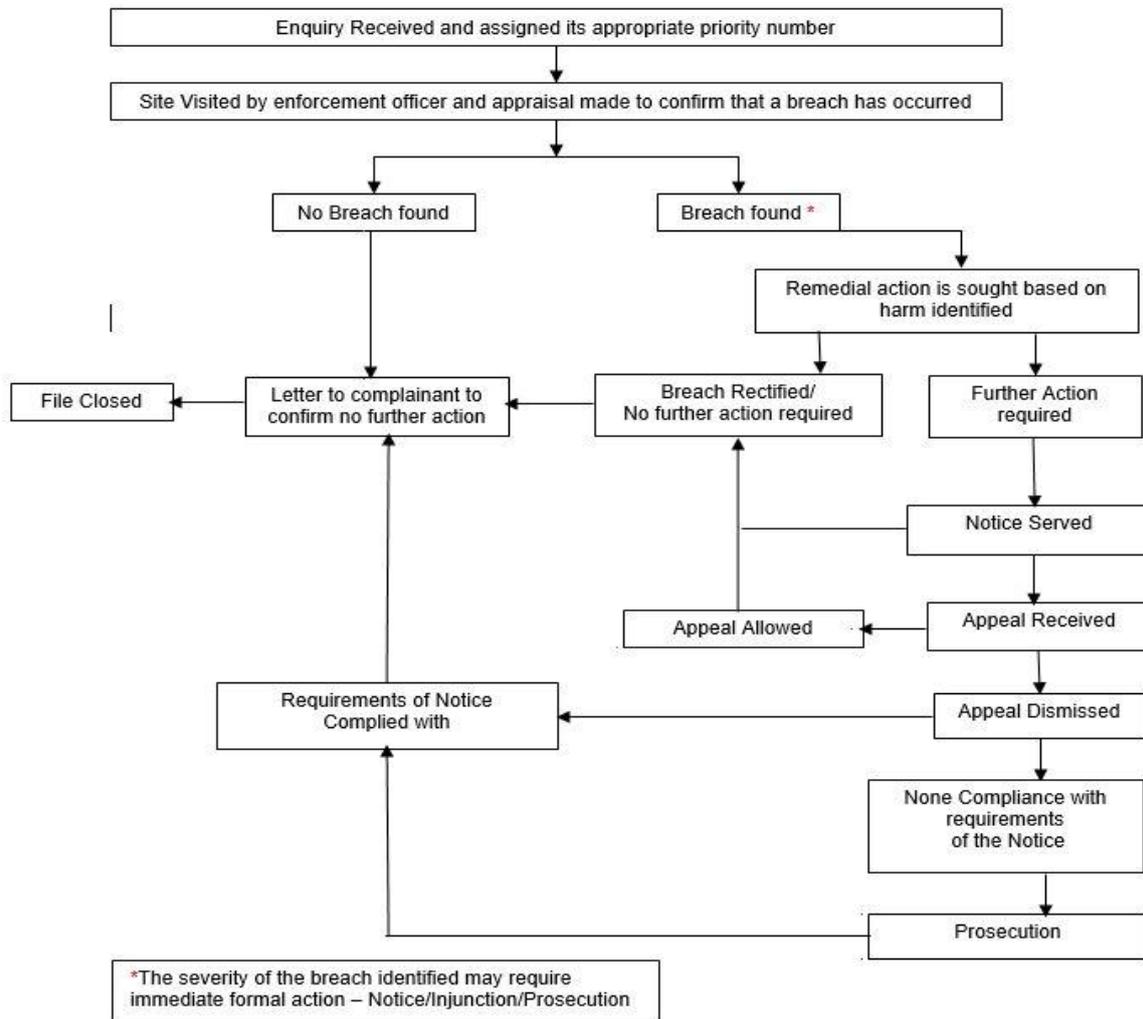
6.3 When received, your enquiry will be logged within 3 working days and allocated to an officer for investigation.

6.4 You will be sent an acknowledgement letter which provides the case reference number, the officers name and their contact details. The officer will keep you updated on the progress of your enquiry from start to finish.

6.5 The officer will carry out an initial desk top assessment in order to establish the facts of the enquiry and to determine whether or not a site inspection will be necessary. From this review the officer may contact you for further information.

6.6 If a site visit is required, the officers will carry out the site visit to the Premises where the alleged breach is taking place, not your property. If on completion of the site visit further information is required. The officer will contact you to arrange a suitable time to visit.

6.7 All enforcement investigations will follow the process:



6.8 The Enforcement Officer dealing with the case after discussion with the senior officers / case officer if necessary. will update you with their initial findings after the site visit has been completed and at each stage of action through the investigation. You will be updated at key stages of the enforcement process such as retrospective applications, formal action or closure of investigations.

6.9 If we decide to take enforcement action (such as serving notice) we will take that action within the following timescales following the receipt of your enquiry:-

- Priority 1 - Decision in 90% of cases within 8 weeks
- Priority 2 - Decision in 80% of cases within 8 weeks
- Priority 3 - Decision in 70% of cases within 8 weeks

6.10 If on completion of our investigation we establish no further action is required, your enquiry will be closed if the following applies:

- The matter is not a planning issue
- The works taking place have planning permission
- The works do not constitute development
- Deemed consent applies due to the passage of time (see sec 3.3)
- The works fall within the Permitted Development criteria as set out with government guidelines
- It is not in the public interest to take action
- The development would obtain planning permission if an application was submitted

7.0 How are breaches Resolved – what are the common forms of enforcement action

- 7.1 Any action will take into account the intent of the owner and how the development relates to the street scene. A householder making a genuine mistake out of ignorance, and cooperating to remedy the mistake, will be treated differently to a developer who fails to comply with a planning decision causing significant harm that affects the local area.
- 7.2 Informal action - Planning legislation requires the council to try to seek a negotiated resolution to a planning breach so that formal action can be avoided. If a planning breach is found, the council will seek to negotiate with an informal solution. The Council will not allow negotiations to become protracted.
- 7.3 Formal Action - The Council is not obliged by law to take enforcement action in respect of any breach of planning control. The Act requires that enforcement action is taken only when it is expedient to do so. The decision on how to proceed with an investigation is within the Council's sole discretion.
- 7.4 If the Council decides that formal enforcement action is warranted there are a range of powers that can be used to deal with a breaches of planning control.
- 7.5 The more widely used forms of enforcement action are:
- Planning Contravention Notice - Requires persons to provide information in respect of land and the activities that are being carried out. It is used to help establish if a breach has occurred and who may be responsible.
 - S330 Notice - Requires the provision of information about those who have an interest in the land where a breach has occurred
 - Breach of Condition Notice - Secures compliance with conditions specified within a planning permission.
 - Enforcement Notice - Requires particular steps to be taken to remedy the breach that has been identified.

- Listed Building Enforcement Notice - Requires works to be done to prevent or reverse unlawful works to a listed building
- Section 215 Notice – Served on interested requiring steps are taken to tidy land or a building that has been allowed to become untidy to the point that it affects the amenity of the local area
- S225A Notice - Requires the removal of advertisements displayed without consent
- Discontinuance notice – requires the display of a particular advertisement which has deemed consent, to cease.
- Stop Notice - Requires the unauthorised activities to cease immediately and is served with an enforcement notice.
- Temporary Stop Notice - and a temporary stop notice lasts for a period of 28 days but does not need to be served with an enforcement notice
- Injunction – Granted by the courts on an application from the Council. It can be used to prevent to something that has occurred or may occur.
- Direct Action – Where the Council take action themselves to deal with an unauthorised development.
- Prosecution – formal court proceedings can be stated by the council for failing to comply with any of the above notices. This can also include displaying advertisements without consent works to TPO trees, works to a listed building and demolition of a building in a conservation area as these breaches, once committed are criminal offence which can be prosecuted without the need to serve a notice.
- POCA Confiscation – On successful conviction to confiscate any monetary benefits derived from not complying with an enforcement notice.
- Tree Replacement Notice - Requires the replacement of trees removed without consent

8.0 What will happen if I carry out work that is a breach of planning regulation

- 8.1 The Council recognises that you will be concerned if you receive a visit or a letter from an enforcement officer stating that an enquiry has been received against you or your property. The Council will therefore ensure that you are given the opportunity to explain the situation to us.
- 8.2 If you receive a letter or a visit from an enforcement officer you should make contact with the Council at the earliest opportunity. It is often that a discussion with the enforcement officer, will be enough to establish whether a

planning breach has occurred. Early contact with the planning enforcement team help us:

- Confirm whether or not a planning breach has occurred and whether or not further action will be necessary on your part in order to resolve the matter;
- Advise you on the next steps in the investigation, whether that be:
- Inviting you to submit a retrospective planning application seeking permission for the development/activity which has taken place;
- Negotiating a solution with you to address the problem in a way that is fair both to you and to the complainant. This could mean reducing the scale of development or activity, altering or reconfiguring it, or relocating it;
- Requesting that you reverse the unauthorised development or cease the unauthorised activity within a reasonable timeframe. Planning enforcement officers will always seek, where possible, to agree a negotiated solution to an issue rather than pursue formal action. It is therefore in your interests, should a complaint be made against you, to co-operate with the enforcement team and to make sure that the investigating officer is aware of your perspective and has the fullest possible information available to them.

8.3 Please do not ignore any letter received. When a complaint is received the Council is obliged, by Law, to carry out an investigation. Therefore, if you do nothing about any correspondence you have received regarding a planning issue, the matter will not 'go away'. If you do nothing it is likely the following will happen:

- A Planning Contravention Notice will be issued requiring you to answer a series of questions regarding the complaint. Failure to respond to such a Notice and provide the requested information is an offence which you will be prosecuted for if necessary;
- The Council will use its powers of entry to access the site of the alleged planning issue and investigate further. Obstructing an officer who needs to gain access to investigate a complaint is also an offence;
- You will be called to an interview under conditions set out in the Police and Criminal Evidence Act. The interview will be carried out under caution, meaning that your responses will be recorded and potentially used against you as evidence in court if prosecution proceedings are necessary;
- If the Council has reason to believe that development or activity is taking place which requires planning permission, it has the right to serve various types of notices upon you without further warning. Again, failure to comply with a notice is an offence. Any person prosecuted for failing to comply with an Enforcement Notice may face an unlimited fine upon conviction and is also liable for the full costs incurred by the Council in bringing the matter to court. It

is therefore in your interests, should an enquiry be made about you, to engage with the Council early on in order to avoid this.

9.0 Enforcement Appeals

- 9.1 There is a right of appeal against most statutory Notices issued by the Council. Appeals are in most cases to the Secretary of State (the Planning Inspectorate) or in some cases to the Magistrates' court. When a Notice is issued the recipient will also be given the necessary information on how to exercise the right of appeal.
- 9.2 Once appealed the notice is held in abeyance whilst the appeal is dealt with by the Planning Inspectorate. Appeals can be determined by written representations, informal hearings or public inquiries. If the Planning Inspector allows the appeal the Notice will be quashed, and the investigation closed. If the appeal is dismissed and the Notice is upheld, the compliance period set out in the Notice starts to run from the date of the appeal decision. There is no set time period for the Planning Inspectorate to determine appeals.

10 Making a planning application after an Enforcement Notice has been served

- 10.1 The Town and Country Planning Act allows the Local Planning Authority to refuse to consider an application for planning permission where an enforcement notice has already been served.
- 10.2 Section 70C of the Town and Country Planning Act 1990, which was inserted into the principal act by section 123 of the Localism Act 2011, allows for a Local Planning Authority to decline to determine a retrospective planning application for the development of any land where the application is for a development that is (in part or in whole) the subject of an Enforcement Notice.
- 10.3 The Council will use these powers, where appropriate, to prevent delays in cases where enforcement action is being taken. However, we will also have regard to each specific case on its own merits and may consider whether granting permission for the development would result in an acceptable resolution.

11.0 Enforcement Outcomes

- 11.1 Where the Council secures successful outcomes from its interventions as a result of a prosecution or the serving of an enforcement notices, it may decide to publicise the case in the interests of warning other developers / residents and promoting a robust and effective planning system.

12.0 Planning Enforcement Services and Fees

- 12.1 The Enforcement Team offer a number of services in order to assist you as a resident or developer when dealing with a breach of planning control or an historic matter pertaining to a Premises.

12.2 A fee will be payable for the following:

- Providing a copy of an enforcement notice
- Removing an enforcement notice from the enforcement register
- Request for compliance check (compliance with planning permission or conditions)
- Enforcement notice compliance certificate
- Request an enforcement meeting (per hour)
- Request for enforcement written advice (per hour)

12.3 You can submit your request for assistance by emailing planning.enforcement@enfield.gov.uk. The cost and timescales involved will be provided by the officer dealing with your enquiry.

13 Publicity of this plan and planning enforcement documents

13.1 This plan will be available on the Council's website accompanied by our Enforcement Charter and Priority List. Hard copies of these documents can be requested if required.

13.2 Under Section 188 of the Town and Country Planning Act 1990 the Council is required by law to keep an enforcement register. This is a public register of all notices held is provided on the Councils website. Hard copies of these documents can be requested if required.