

# London Borough of Enfield

## Planning Enforcement Policy

2021

### 1.0 Introduction:

- 1.1 This Policy sets out the Council's approach to dealing with breaches of planning control. It provides information and guidance to residents, developers and those with other interests regarding how the Council will deal with development that does not have the required planning permission or where there is non-compliance with enforcement action already taken.
- 1.2 The National Planning Policy Framework (NPPF) requires local planning authorities to act proportionately in responding to suspected breaches of planning control. This policy functions as the council's 'local enforcement plan' for the purposes of the NPPF.
- 1.3 Planning Practice Guidance (PPG) states that there is a clear public interest in enforcing planning law in a proportionate way. Effective enforcement is important to:
- tackle breaches of planning control which have an unacceptable impact on the amenity of the area or are otherwise seriously contrary to planning policy;
  - maintain the integrity of the decision-making process;
  - help ensure that public acceptance of the decision-making process is maintained.
- 1.4 The planning enforcement service is concerned with resolving serious breaches of planning control. There must be harm to public amenity, safety or the environment for enforcement action to be justified.
- 1.5 The Council cannot take enforcement action, or intervene to secure an improvement, simply to remedy a breach of planning control, if that breach is considered acceptable in planning terms.
- 1.6 Undertaking planning enforcement action is:
- discretionary;
  - only undertaken where there is a clear public interest in enforcing planning law and planning regulation in a proportionate way;
  - should only be taken by LPA when it is expedient to do so having regard to the development plan and any other material considerations.
- 1.7 The planning enforcement service is committed to addressing serious breaches of planning control. Formal enforcement action will, however, only

be taken where there is harm to amenity, the harm identified from the breach of planning control is significant and it is considered proportionate and expedient to do so.

- 1.8 The assessment of planning applications balances often competing private demands in the public interest. Planning enforcement is no different. A breach of planning will be assessed in terms of the policies of the development plan and other relevant material planning considerations; and whether the degree of harm arising from the breach is significant. If this is established, a remedy to the breach will be sought by the Council's enforcement team. This could involve agreeing changes to a development or activity and encouraging the submission of a planning application as an alternative to formal enforcement action.

### Relationship to Corporate Plan and Priorities

- 1.9 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
- 1.10 This Plan 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.

## **2.0 Planning Enforcement Service – Our Commitment**

- 2.1 Our commitment:

1. We will follow good enforcement practice in a proactive and reactive way
2. We will seek to be transparent and fair in our feedback to interested parties on our assessment of whether there has been a breach of planning control and whether it is expedient or proportionate to take formal enforcement action.
3. We will take robust and effective enforcement of serious breaches of planning control where it is considered proportionate and expedient.
4. We will aim to progress enforcement investigations in a timely fashion.

- 2.2 We encourage Council Officers, Members, Partners, residents and local businesses to report suspected breaches of planning control allowing us to effectively investigate alleged breaches in a timely manner. Action may also be taken if appropriate even where there is no public request to investigate.

## **3.0 What is a Breach of Planning Control?**

- 3.1 A breach of planning control is defined in Section 171A of the Town and Country Planning Act 1990 as:

*“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 In other words, planning permission is often required before a change of use or works can be undertaken to land or buildings. A breach of planning control occurs when a change of use, or works to land or buildings, has taken place without the appropriate consent.

3.3 Breaches of planning control can include:

- Carrying out of development without the required planning permission
- Changing the use of a site/building without the required planning permission
- Failing to comply with any planning condition and/or limitation, such as a Section 106 Agreement attached to any planning permission (including under Permitted Development)
- Failure to comply with approved drawings attached to a planning permission
- Carrying out certain demolition work in a conservation area without consent
- Unauthorised building work which either fronts a highway or public open space within a Conservation or Article 4 Area
- Carrying out unauthorised works/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
- Unauthorised minor works at residential properties (porches, fences, balustrade, patios)

- Unauthorised advertisements

3.4 It may often be difficult to judge whether or not a breach of planning has occurred when construction is still on-going. The Council can only act on clear evidence and justification for that action and may have to react in response to the development.

3.5 Where harm cannot be demonstrated, it would not be justified for the Council to take enforcement action to remedy a breach of planning control. It does not therefore follow that because there has been a breach of planning control that enforcement action will be taken. It is at the Council's discretion whether enforcement action will be taken.

3.6 The planning enforcement team is concerned with resolving serious breaches of planning control where there is harm to public amenity, safety or the environment. It does not deal with neighbour or business disputes, or a change to the environment that an individual or group of residents may not like.

3.7 Unauthorised works and activities can become immune from enforcement action. 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. After such time, the works become lawful.

3.8 No enforcement can be undertaken if action is not taken within:

- 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

3.9 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 for 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.

#### **4.0 What is not a breach of planning control?**

4.1 Not all development needs planning permission. 'Permitted development' regulations allow quite significant alterations and extensions to be made to buildings and outbuildings under certain conditions, along with certain changes of use without the need to first obtain approval.

4.2 In addition, some issues reported to the Planning Enforcement Team are not always breaches of planning control 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 powers available under planning legislation. The following are some examples;

- Competition with other businesses;
- Trespass, boundary or other neighbour disputes;
- Breaches of a covenant;
- Internal works to a non-listed building;
- 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;
- Matters controlled by other legislation and enforced by other departments or organisations, for example Building Control, Environmental Health, Highways, Police, Environment Agency, Health and Safety Executive e.g. Parking of commercial vehicles on the highway;

4.3 If we receive an enquiry regarding a non-planning matter, which the Council has jurisdiction over, it will be forwarded to the responsible department.

## 5.0 Relevant Legislation and Planning Policies

5.1 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
- Development Plan, comprising:
  - London Plan
  - Development Management Document
  - Enfield Plan – Core Strategy
- Conservation Area appraisal documents

5.2 The National Planning Practice Guidance states that:

*Effective enforcement is important to:*

- *tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;*
- *maintain the integrity of the decision-making process;*
- *help ensure that public acceptance of the decision-making process is maintained.*

5.3 The Guidance advises that “Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy”.

5.4 In addition, Government advice states that Enforcement action should be proportionate to the breach of planning control to which it relates and taken when in the public interest, it is expedient to do so. Where the balance of public interest lies will vary from case to case.

5.5 In deciding, in each case, the National Planning Practice Guidance goes on to state that “local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed”.

## **6.0 Reporting a breach of planning control**

6.1 You can report a breach by emailing [planning.enforcement@enfield.gov.uk](mailto:planning.enforcement@enfield.gov.uk). Or by telephone – 0208 379 3856

6.2 The following information is required when reporting a breach:

- Your name, postal address and contact details (either an email address or telephone number);
- The site address or location of the alleged breach;  
Note: Where an incorrect address is supplied this results in abortive research and investigation work at public expense and unnecessary disturbance to occupants of that address. In those circumstances the file will be closed and the requestor advised. The onus is on the individual requesting an investigation to provide correct address details. If the correct address is subsequently provided and properly verified it will be registered and treated as a new investigation;
- What the alleged breach is;
- When the alleged breach started;
- Any information about who is considered responsible for it;
- Details of how the alleged breach is having a harmful impact;
- Photographs, if possible.

6.3 The identity of a person making an investigation request is kept confidential unless the Council is required to release the information; for example, if a case proceeds to the appeal stage, and if the individuals evidence is part of the Council’s case, anonymity cannot be guaranteed. However, we will ask for the requestor’s agreement if we need to do this. In some cases, the Council’s case may be weakened by the requestor not agreeing to forego anonymity, and in such cases, it may not be expedient to proceed with formal enforcement action.

## **7.0 The Council’s approach to enforcement**

- 7.1 The Council takes breaches of planning control seriously, particularly if it is done intentionally and results in serious harm. However, it is at the Council's discretion whether enforcement action will be taken.
- 7.2 The Planning Enforcement Service is concerned with resolving serious breaches of planning control where there is harm to public amenity, safety, or the environment. It will not take action just because there is a technical breach of legislation or policy. It does not deal with neighbour or business disputes or changes to the environment that an individual or group of residents may not like.

## **8.0 How the Council will deal with a request to investigate**

### Pre - Screening.

- 8.1 Requests received will be logged, acknowledged and investigated unless:
- Anonymous
  - Not a planning matter or related to planning harm
  - Otherwise inappropriate
- 8.2 Once screened, the service request will be logged and the requestor will be sent an acknowledgement letter which provides the case reference number, the officers name and their contact details.

### Screening (Desk Top Assessment)

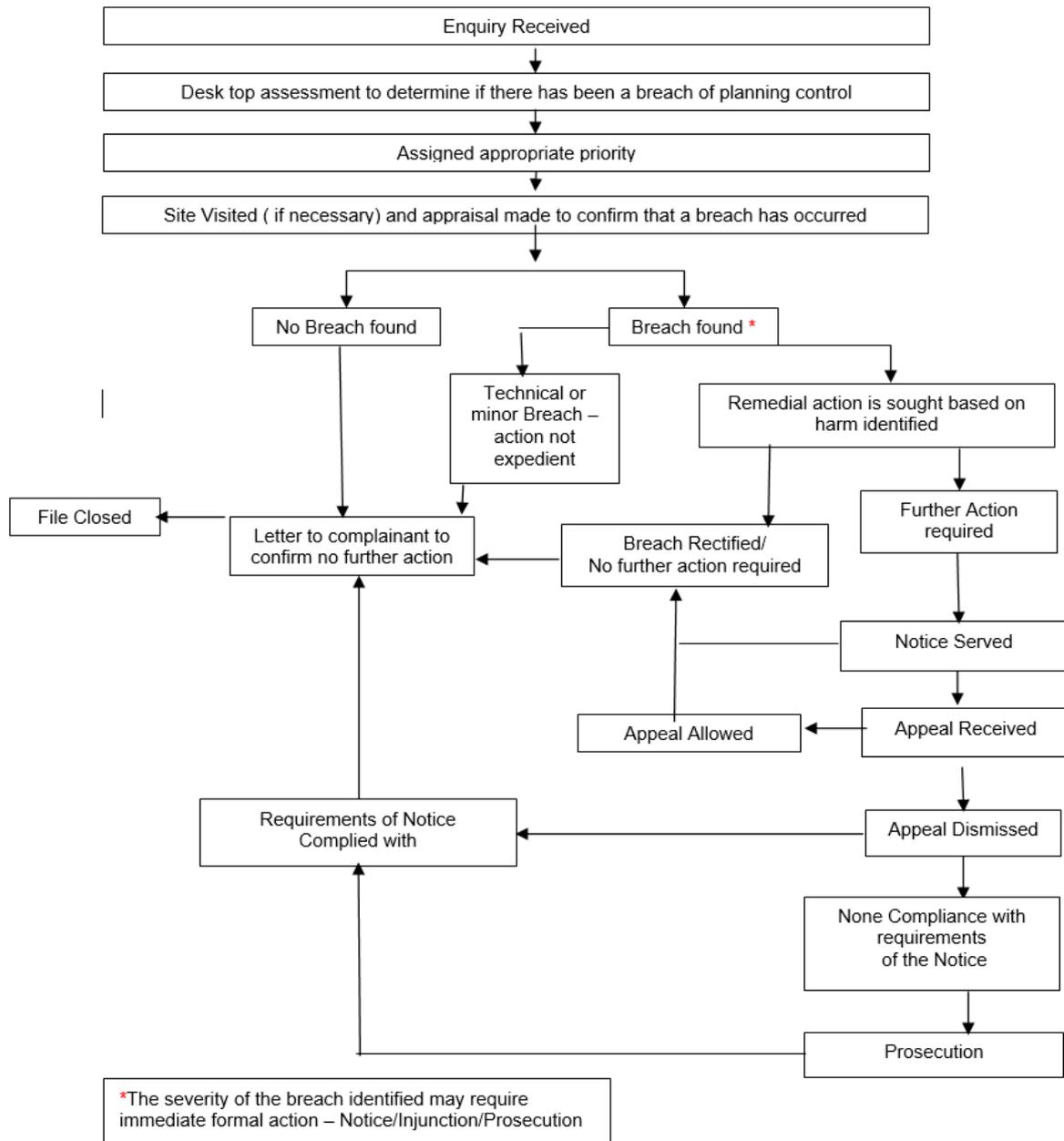
- 8.3 An initial desk top assessment will be carried out in order to establish the facts of the enquiry and to determine whether or not it is a breach of planning control, whether a site inspection will be necessary or if it is expedient and proportionate to take further action. From this review the officer may contact the requestor for further information.
- 8.4 The desk top assessment will look at:
- Has any development taken place?
  - Is there a breach of planning control?
  - The extent and nature of any breach of planning control
  - Is a site visit required?
  - if it is a breach is it a technical breach with no significant harm;
- 8.5 Should development have taken place and a breach of planning control identified, if it represents only a technical breach or there is minimal harm arising from the breach, we may decide not to investigate further and / or invite a planning application to regularise the breach.
- 8.6 If we decide not to progress an enforcement investigation, the requestor will be notified of the decision.
- 8.7 Inviting a planning application to be made retrospectively does not guarantee a positive outcome. Any application will be assessed on its merits following an

assessment against site circumstances, relevant planning policy and any comments received.

#### Investigation and Action

- 8.8 Once screened to establish the request requires further investigation, we will undertake a site visit to identify the harm the breach is causing.
- 8.9 In assessing any breach of Planning Control we will consider the following:
- Is there planning permission for the development?
  - Is the work permitted development?
  - The degree to which the development differs from the approved or lawful position
  - The relationship to neighbouring properties taking account of size, siting, depth, separation to adjacent properties, projection beyond neighbouring properties, orientation, levels, other existing structures etc to identify any harm to neighbouring amenity,
  - Its siting, design and appearance to identify any harm to the visual amenities of the surrounding area and the wider environment including trees
  - The relationship to planning policy ( e.g. Metropolitan Green Belt)?
  - The relationship to any applicable housing or design standards
  - The effect on parking, serving and access
  - Whether the breach be resolved through negotiation or an application?
  - Whether it is expedient and proportionate to take formal enforcement action?
- 8.10 Site visits are normally undertaken without prior notice, unless access is required to be arranged. This is because of the need to obtain accurate, representative and timely evidence of how a site is being used, or in terms of building works, because difficulties in contacting site managers can sometimes significantly delay an investigation.
- 8.11 If no serious harm is identified, no enforcement action will be taken and the investigation will be closed. The requestor will be notified of this decision.
- 8.12 Where there is immediate or serious harm arising from the identified breach, the Council will consider what appropriate action is necessary.
- 8.13 Only a small proportion of complaints received result in formal action. Many of the rest are closed without the need to take formal action, or cannot be pursued within the resources available.
- 8.14 Planning enforcement can also be a lengthy process. After the initial investigation to establish whether a breach has occurred, compiling evidence and serving a notice can take weeks or sometimes longer. There are also rights of appeal which may be pursued before an enforcement notice can come into effect. More complicated cases can take several years to resolve, especially where it is necessary to take action in the courts

8.15 Enforcement investigations follow this process:



8.16 The Enforcement Officer dealing with the case after discussion with the senior officers / case officer if necessary, will update the individual who requested the investigation with their initial findings after the site visit has been completed. Requestors will also be updated at key stages of the enforcement process such as retrospective applications, formal action or closure of investigations.

8.17 No further action will be taken and the case closed if in the opinion of the authorising officer, the following applies:

- The matter is not a planning issue
- The works taking place have planning permission
- The works do not constitute development as defined by Section 55 of the Town and Country Planning Act 1990 (as amended)
- Deemed consent applies due to the passage of time (see sec 3.3)
- The works fall within the Permitted Development criteria as set out in government guidelines
- It is not in the public interest to take action
- The development is likely to obtain planning permission if an application was submitted

## **9. Priorities for Action**

9.1 Cases will be prioritised according to the seriousness of the alleged breach and the harm that is being caused. It will not be possible for the council to pursue all cases.

9.2 Harm is normally defined as a breach of planning control that would have a harmful effect on the amenities of local residents or the character of an area. This judgement will be informed by local circumstances, the nature of the breach and with reference to the Town and Country Planning Act 1990 (as amended) and all its subordinate and associated legislation, relevant national, regional and local planning policies and other material considerations, including the European Convention on Human Rights.

9.3 Where serious harm cannot be demonstrated, it is more likely that no justification will exist for the Council to take enforcement action to remedy the breach of planning control.

### **9.4 Priority 1**

- 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
- Where the harm is very significant to either public amenity or to residents

- On-going breaches of an effective Enforcement Notice

Response time: Site inspection if necessary, within 1 working day of receiving enquiry. Full or interim enforcement action taken within 5 working days of the site inspection and requestor updated.

#### 9.5 Priority 2:

- Unauthorised breaches in Crews Hill Defined Area
- Unauthorised building work not fronting a highway or public open space within a Conservation Area
- Unauthorised major building works undertaken at residential properties (e.g. extensions, dormers, outbuildings) outside a Conservation or Article 4 area
- Unauthorised external building works to commercial Premises (including extensions, flues/air conditioning units, shop fronts and canopies)
- Unauthorised commercial activity that impacts upon neighbouring residential properties
- Unauthorised flat conversions, conversion of outbuildings/external garages as a separate unit of accommodation and Houses of Multiple Occupation, currently being divided.
- Untidy or derelict land causing immediate detriment to residential amenity and/or the street scene
- Unauthorised change of use of commercial Premises
- Unauthorised hostels and care homes
- Unauthorised car washes
- The refusal of a retrospective planning application or dismissed appeal

Response time: Site inspection if necessary, within 10 working days of receiving enquiry. Full or interim enforcement action taken within 20 working days of receiving enquiry and requestor updated.

#### 9.6 Priority 3:

- Unauthorised flat conversions and conversion of outbuildings/external garages as a separate unit of accommodation and Houses of Multiple Occupation, already in occupation.

- Unauthorised breaches of planning conditions, (including Late night opening)
- Unauthorised minor works at residential properties (porches, fences, balustrade, patios)
- Unauthorised large satellite dishes
- Unauthorised car boot sales
- Unauthorised advertisements
- All other breaches

Response time: Site inspection if necessary, within 20 working days of receiving enquiry. Full or interim enforcement action taken within 30 working days of receiving enquiry and requestor updated.

9.7 Initial enquiries received by the Planning Enforcement Team are subject to review by the Team Leader in order to assess both the possible impact and harm caused by the alleged breach of planning control. This may result in an enquiry being reallocated to a lower priority.

#### Targets

9.8 Our targets for responding to the initial receipt of a potential breach of planning control are:

- Priority 1: Initial Assessment & Response on Determination of Future Action + Update Requestor  
– 95% within 2 days of receipt
- Priority 2: Initial Assessment & Response on Determination of Future Action + Update Requestor  
- 90% within 20 days of receipt
- Priority 3: Initial Assessment & Response on Determination of Future Action + Update Requestor  
- 80% within 30 days of receipt

### **10.0 How are breaches resolved – what are the common forms of enforcement action**

10.1 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.

- 10.2 Depending on the nature of a confirmed breach of planning control, there are a range of measures the council can take.

### *Options*

#### Take no action / Ongoing Review

- 10.3 Take no action or monitor the position in case circumstances change. Such cases might include minor breaches causing no significant harm, those which are unlikely to create a precedent or which may be remedied of their own accord before formal enforcement action is likely to become effective (such as temporary uses).

#### Allow Time to Remedy:

- 10.4 Time may be given to remedy the breach or justify its retention. Such cases may include situations where the harm is easily repairable and is not so serious as to warrant immediate action or where it may be otherwise justifiable. However, because formal enforcement action takes some time in any event, any informal opportunity to resolve the breach will not be allowed to delay effective action unnecessarily. Informal intervention to address breaches of planning control will only be requested where harm where formal action is considered to be justified.

#### Formal Action

- 10.5 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.
- 10.6 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.
- 10.7 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 as 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 parties 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 – Requires the unauthorised activities to cease immediately but only lasts for a period of 28 days. It 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 development that has occurred or may occur.
- Direct Action – Where the Council decides to take action themselves to deal with an unauthorised development.
- Prosecution – Formal court proceedings can be started 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 following prosecution to confiscate any monetary benefits derived from not complying with an enforcement notice.
- Tree Replacement Notice - Requires the replacement of trees removed without consent

## **11.0 When residents are the subject of an investigation of breach**

- 11.1 The Council recognises that residents will be concerned if they receive a visit or a letter from an enforcement officer stating that a planning enforcement enquiry has been received against them or their property. The Council will therefore give residents the opportunity to explain the situation to us.

11.2 If in receipt of a letter or a visit from an enforcement officer, please 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 helps us:

- Confirm whether or not a planning breach has occurred and whether or not further action will be necessary in order to resolve the matter;
- Advise on the next steps in the investigation, whether that be:
  - i) Inviting the submission of a retrospective planning application seeking permission for the development/activity which has taken place;
  - ii) Negotiating a solution to address the problem in a way that reduces the harm of the breach to an acceptable level in policy terms. This could mean reducing the scale of development or activity, altering or reconfiguring it, or relocating it;
  - iii) Requesting that the unauthorised development be reversed or ceased within a reasonable timeframe.

11.3 Please do not ignore enforcement letters received. Lack of engagement can lead to:

- A Planning Contravention Notice being issued if no response is received. This will require the recipient to answer a series of questions regarding the enforcement enquiry. Failure to respond to such a Notice is an offence which can carry prosecution ;
- The Council using 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 is also an offence;
- Residents being 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 responses will be recorded and potentially used as evidence in court if prosecution proceedings are necessary;

11.4 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 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.

## **12.0 Enforcement Appeals**

12.1 There is a right of appeal against most statutory Notices issued by the Council. Appeals are made 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.

12.2 Once an appeal process has commenced 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.

### **13.0 Retrospective Planning Applications or Making a planning application after an Enforcement Notice has been served**

13.1 The Council can decline to determine retrospective planning applications if any part of the development described in the retrospective application is already the subject of an enforcement notice (whether appeal rights against the enforcement notice have been exhausted or not). In considering whether an application is accepted the council will consider the following:

- The application appears to be part of a sincere effort to engage with the council to amend a proposal and remedy the breach of planning control;
- The application addresses unacceptable elements of the development (as identified in the reasons for issuing the enforcement notice), and is generally in accordance with planning policies;
- The application would not have the effect of delaying compliance with the notice by frustrating prosecution or direct action proceedings, whether these have already begun or not.
- The application is not submitted just before the compliance period expires or after it has expired.

13.2 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.

13.3 Should a retrospective planning application be received during an investigation, the serving of an enforcement notice will be paused while the planning application is determined.

### **14.0 Variations to compliance periods**

- 14.1 The council will occasionally extend the compliance period of an enforcement notice. Requests for extensions will only be entertained where the person responsible for complying with the notice has been genuinely unable to do so for reasons beyond their control, and has made the request in good time. Evidence may be requested to support such requests.

## **15.0 Prosecution**

- 15.1 The council will use discretion in deciding whether to prosecute planning offences. Prosecution will only be pursued when it is in the public interest and in accordance with the Code for Crown Prosecutors. Once summons have been served, prosecution proceedings will not normally be withdrawn even if a breach is subsequently complied with.
- 15.2 Whilst the collection of the necessary evidence to prosecute will be collected by the Planning Enforcement Team (and other departments where necessary), the decision to prosecute will be made by the appropriate senior legal officer in the legal department in accordance with the constitution.
- 15.3 Given the nature of planning enforcement the council will not normally carry out interviews under caution with potential defendants unless there is a specific need to do so.
- 15.4. It is only possible to undertake a limited number of planning enforcement prosecutions per year. Prioritisation will be given to cases that are causing the most significant ongoing planning harm, and to long running cases where compliance has not been achieved long after it was due.
- 15.5 In support of prosecution or appeal processes, costs will be sought from defendants to minimise costs to the council. Measures under the Proceeds of Crime Act (POCA) will be utilised where appropriate to retrieve monies gained unlawfully, to help cover the costs of enforcement, improve the service and to ensure an effective disincentive to ongoing breaches of planning control.
- 15.6 Potential proceeds from POCA are not a factor in making a decision on whether to put a case forward to legal for prosecution.

## **16.0 Direct Action**

- 16.1 As an alternative to, or in addition to prosecution as detailed above, the council may decide to take direct action to carry out the steps provided in the notice in default. This may happen any time after the compliance period expires, and the council will not enter into protracted correspondence. The decision to take direct action will be at the council's discretion and will take into account the complexity of the works required and the likely upfront costs to the council. Owners/occupiers will be warned that the council may take direct action at least one week ahead, but the date on which the works will take place will not be revealed in advance. The costs of direct action will be

recovered directly from the landowner in accordance with the planning legislation.

## **17. Enforcement Outcomes**

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

## **18.0 Final resolution of cases**

18.1 Compliance with an enforcement notice does not discharge the notice, and it remains as a charge on the land to prevent the breach reoccurring as it can be enforced against subsequent owners or occupiers. If an assurance is sought by an owner or prospective occupier, the council will confirm in writing that an enforcement notice has been complied with on a particular date, subject to the production of sufficient evidence required from the applicant and/or the payment of a fee to cover council's costs of inspection, research and administration.

18.2 This will not apply where the council's appeal costs have been awarded but not paid. There is no statutory requirement for the council to confirm compliance with an enforcement notice except by way of an application for a Certificate of Lawful Development, for which there is a statutory fee and timescales.

18.3 Enforcement notices will only be withdrawn in exceptional circumstances, for example where they have been issued in error.

## **19.0 Monitoring planning permissions**

19.1 Monitoring of consented development will be largely carried out on a reactive basis when divergences from approved plans are brought to the council's attention.

## **20.0 Planning Enforcement Services and Fees**

20.1 The Enforcement Team offer a number of services in order to assist residents or developers when dealing with a breach of planning control or an historic matter pertaining to a Premises.

20.2 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)

20.3 Submit your request for assistance by emailing [planning.enforcement@enfield.gov.uk](mailto:planning.enforcement@enfield.gov.uk). The cost and timescales involved will be provided by the officer dealing with the enquiry.

## **21.0 Complaints against the planning enforcement service**

21.1 If someone is concerned that procedures have not been followed, they should contact the relevant member of staff's line manager in the first instance. Formal complaints will be handled in accordance with the council's Complaints Procedure

## **22.0 Publicity of planning enforcement documents**

22.1 This plan will be available on the Council's website accompanied by our Enforcement Charter and Priority List.

22.2 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 notices held and is provided on the Council's website. Hard copies of these documents can be requested if required.