

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

## **Draft Enforcement**

This plan tells you how the council will deal with breaches of planning regulations, developments that do not meet national and local policies, or a failure to comply with enforcement action taken by the council.

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

Section 171A of the Town and Country Planning Act 1990 as amended defines breach of planning control as

*“... 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”*

Planning breaches 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

## Timescales for dealing with planning breaches

Erection of buildings and other operational development works	4 Years
Change of use to a residential unit	4 Years
Non-compliance with planning conditions controlling occupation	4 Years
Changes of use of buildings or land	10 Years
Non-compliance with planning conditions	10 Years
Works to Listed Buildings	No time limit
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

Generally, we will not be able to act if the time limit has passed, but enforcement action can be taken within 4 years if

An earlier enforcement action later proved to be defective

There has been an attempt to deliberately conceal a breach of planning control, in which case we may apply for a [planning enforcement order](#) to allow us to take action after the time limits have expired.

There is no time limit for us to start prosecution proceedings

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

In some cases we cannot take 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

## How we deal with breaches of planning rules

Each case is given a priority rating according to 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.

If we decide to take enforcement action we will work to the following timescales:

- 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

## Forms of enforcement action

**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 we reach a negotiated solution we expect any remedies agreed to be completed within a reasonable timescale.

**Formal Action** - If we cannot negotiate a solution and the harm caused by the breach is serious enough to justify it, we will use the powers available to take formal enforcement action where necessary.

The Council is not obliged by law to take enforcement action in respect of any breach of planning control, but only when it is expedient to do so.

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 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

## **Enforcement Appeals**

There is a right of appeal against most statutory Notices issued by the Council. Appeals are usually to the Secretary of State (the Planning Inspectorate) or in some cases to the Magistrates' court.

We tell people about how to appeal when a Notice is issued.

We cannot enforce the notice if an appeal is outstanding.

Appeals can be determined by providing information in writing, at informal hearings or at public inquiries.

If the appeal is successful the notice will be quashed, and the investigation closed.

If the appeal is not successful and the Notice is upheld, the timescale for complying with 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.

## **Making a planning application after an Enforcement Notice has been served**

We may refuse to consider an application for planning permission where an enforcement notice has already been served. We will use these powers to prevent delays in cases where enforcement action is being taken. However, we may decide to grant permission for the development if this provides an acceptable resolution.

We do take a blanket approach to using these powers and will consider each case on its own merits.

## **Planning Enforcement Services and Fees**

The Enforcement Team offers several paid for services to help you when there has been a breach of planning control or there is an issue that existed before you became the owner of the premises.

We can help you with 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)

You ask for help 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 your enquiry.

## **Case management**

Reports are logged and allocated to an officer to investigate within three working days of being made. We will send you an acknowledgement letter containing the case reference number and contact details for the officer managing the case.

We will carry out an initial desk top assessment to establish the facts and decide whether a site inspection is necessary.

If a site visit is needed it is to the premises where the alleged breach is taking place not your property.

If further information is required after the site visit the case officer will contact you.

No further action will be taken if the initial enquiry finds that:

- 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

## **Decision making**

We will always consider 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.

During the investigation we will consider whether:

- The development has taken place
- The development resulted in a breach of planning rules
- The harm caused to neighbours or the surrounding area by the breach
- The breach can be resolved through negotiation or a retrospective planning application
- It is expedient to take formal enforcement action

## **What if I have breached planning regulations**

We will write to or visit the person who is alleged to have breached the rules. If you get a letter or a visit from an enforcement officer, you should contact the Council as soon as possible to discuss the matter with the case officer. We will

always try to negotiate a solution rather than pursue formal action. It is therefore in your interests to co-operate with the enforcement team and give the case officer your perspective and as much information as possible to them.

Early contact with the planning enforcement team help us:

- Confirm whether a planning breach has occurred and whether you need to take further action to resolve the matter;
- Advise you on the next steps in the investigation, which might be
  - Invite you to submit a retrospective planning application for permission for the development/activity which has taken place;
  - Negotiate a solution with you that is fair to you and to the complainant. This could mean reducing the scale of development or activity, altering or reconfiguring it, or relocating it;
  - Ask you to reverse the unauthorised development or cease the unauthorised activity within a reasonable timeframe.

Please do not ignore any letters we send to you.

The Council is obliged, by Law, to carry out an investigation if a complaint has been made. If you do nothing it will not 'go away'. Instead the following will happen:

- We will issue you with a Planning Contravention Notice that requires you to answer questions about the complaint. Failure to reply with the information requested is an offence that you can be prosecuted for and the penalty is an unlimited fine upon conviction. You will also be liable for the full costs incurred by the Council in bringing the matter to court.
- We will use the Council's 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.