

# Development Management Advice Note

## HOW ARE THE PLANNING REGULATIONS ENFORCED?

This advice note explains the powers available to the Council to enforce planning regulations. We hope you find this document helpful but if you need further information or other documents, details of how to obtain these are given at the end.

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### INTRODUCTION

Our Enforcement Officers deal with the investigation and resolution of breaches of planning control across the whole Borough. These are drawn to our attention either by complaints made by telephone, in writing or online, or by the monitoring of building works. Complaints about possible breaches of planning control should normally be made in writing. Anonymous complaints are difficult to investigate and action will only be taken where the breach of planning control appears to be serious and causing local harm. Your complaint will be acknowledged by letter, when you will also be told which enforcement case officer will be handling the investigation. The case officer will act as your point of contact and will ensure that you are advised of the progress and outcome of the case.

### ARE COMPLAINTS KEPT CONFIDENTIAL?

If you have reported a breach of planning control, details of your complaint will be dealt with in strictest confidence. Your name and address will not be revealed to the person or organisation involved in the alleged breach. In certain serious cases you may be asked to assist the Council by providing evidence at an appeal or in Court. Before this happens, we will ask for your consent. If an appeal is lodged, any representations received become public documents that are available for public inspection, including by the appellant and their legal representatives.

### HOW QUICKLY ARE PLANNING BREACHES INVESTIGATED?

The Council sees enforcement action as an important component in controlling development. Reports of possible breaches of planning control are taken seriously and investigated as quickly as possible in accordance with a priority system. Obviously, more serious breaches must be investigated immediately. All other lower priorities are dealt with within agreed timescales, subject to the availability of enforcement officers.

### WHAT CAN THE PUBLIC DO TO HELP?

The assistance of the public is often crucial to the success of planning enforcement action. Due to the amount of building activity in the Waltham Forest area, it would be impossible for the Council to identify all possible breaches of planning control, without an army of enforcement officers and at great expense. Enforcement investigations therefore generally follow a written, telephone, online or email complaint.

During the enforcement process, information from residents can often supplement that held by us. When alerting the Council to a possible breach it is useful to include as much information as possible in the written complaint and, where appropriate, attach photographs. The information should include the date the activity started, the exact location of the site, the names, addresses and telephone numbers of the owners, occupiers, builders, agents etc. (if known), and details of the effect that the activity is having (for example, noise, traffic, smells, overshadowing etc.). The more details provided,

the quicker the problem can be resolved. In certain cases, the complainant will be asked to complete a 'record of events' form to help the Council to decide whether the use is unauthorised. Such information can be invaluable and may help speed up the process of determining whether there is a breach of planning control.

If an appeal is lodged against an enforcement notice, we will notify anyone who informed us of the matter and ask if they wish to submit additional information or appear at an Inquiry or Hearing, to support the Council's case. We will help you with this. The strength of local support can be crucial to the Council's success.

## WHAT IS A BREACH OF PLANNING CONTROL?

A breach of planning control occurs when 'development' takes place without the necessary consent of the Council. Unauthorised development includes the following:

- Carrying out building works or the change of use of a property (for example, from a house to a shop) without planning permission, or a building not built in accordance with an approved plan or not complying with the conditions on a planning permission
- Carrying out works to a listed building without listed building consent
- Displaying certain signs or advertisements without advertisement consent
- Felling or carrying out works to a tree that is the subject of a Tree Preservation Order or is situated within a Conservation Area without authorisation

Unauthorised development can be a breach of planning control. A breach of planning control is not usually a criminal offence. However, carrying out unauthorised works to a listed building, the unauthorised display of advertisements or damage to a protected tree may involve a criminal offence.

## WHAT IS NOT A BREACH OF PLANNING CONTROL?

The following are examples of activities that are not breaches of planning control, and therefore no enforcement action can be taken under the planning legislation:

- Parking of commercial vehicles on the highway, even in residential areas
- Operating a business from home where the residential use remains the primary use and it is not causing local problems
- Parking a caravan within the residential boundary of a property provided that it is ancillary to the dwelling (for example, it is stored)

## WHAT MATTERS NEED TO BE CONSIDERED BEFORE ACTION IS TAKEN?

The enforcement officer has to consider a number of questions before being in a position to recommend a particular course of action. The sequence of events is usually as follows:

### **Is the matter controllable under planning legislation?**

Many minor works, including alterations to buildings, small extensions to dwellings, outbuildings up to certain limits, some 'changes of use' and many advertisement signs do not require consent from the Council. If this proves to be the case, no action can be taken.

### **Has permission already been given?**

Most planning permissions can be implemented any time within 3 years of being granted. Once partially implemented, there may be no time limit on its final completion. So if you see works taking place, but cannot recall a recent planning application, the activities are not necessarily unauthorised. On receipt of a written complaint, the enforcement officer will check that the development has permission and is being carried out in accordance with the approved plans and conditions.

## **Is the matter serious enough to warrant action?**

In considering whether enforcement action is appropriate, the decisive issue for us will be whether the breach of planning control is causing local problems. Enforcement action will not normally be initiated where a trivial or technical breach of planning control has occurred which causes no general harm. The Council will not take enforcement action solely to regularise an acceptable development.

## **Where permission has not been granted, is the matter acceptable in planning terms?**

To commence building works, or make a change of use without planning permission, is not in itself an offence. Local authorities must consider an unauthorised development in exactly the same way as a planning application and can ask for a planning application to be submitted to try and regularise the situation. This is the most common approach if the activity or building is potentially acceptable. Conditions can be imposed on any permission granted in order to control the development; for example, the opening hours of a business.

## **If the matter is unacceptable, what is the most appropriate action to take?**

Local authorities have a wide range of options from which to choose and which one(s) will be used will depend on the nature of the case. The Council's priorities are to protect the local area, safeguard the environment generally and uphold local planning policy in the speediest and most effective way. The integrity of the planning system depends on taking effective enforcement action where it is necessary and there is clear harm or nuisance.

## **HOW LONG DOES ENFORCEMENT ACTION TAKE?**

Government advice is to use persuasion and negotiation before taking formal enforcement action. Often, this proves to be the quickest and most effective way to resolve the problem. For this reason, the person responsible for the breach is usually advised of the problem, what needs to be done to make matters acceptable and the powers we have if they fail to do so. In the majority of cases, they will take the necessary action of their own accord.

If persuasion and negotiation are not successful, we may then instigate formal action. This can include serving an enforcement notice, or taking out an injunction or a prosecution. Immediate prosecution is only permissible in the case of unauthorised works to a listed building, the unauthorised display of advertisements or damage to a protected tree.

There is a right of appeal to the Secretary of State (dealt with by the Planning Inspectorate) against an enforcement notice. The requirements of the notice will be suspended until the appeal is completed. Appeals against Enforcement Notices can take up to a year to be heard and decided. If an appeal is allowed, the Council can take no further action. If the appeal is dismissed, the period for compliance (which may have been varied by the Inspector hearing the appeal) begins from the date of the appeal decision. If an appeal is dismissed, legal action (prosecution proceedings) can be taken if an individual then fails to comply with the requirements of an Enforcement Notice after the time allowed by the Notice. The process can therefore take a long time to be successful.

## **FOR FURTHER INFORMATION OR HELP**

We hope you find this document helpful. Other documents are available from our reception or our website (addresses at bottom of page). If you need further information please phone Waltham Forest Direct on (020) 8496 3000 or call into our reception at Sycamore House between 9am and 5.15pm Monday to Thursday, or 9am and 5pm Fridays (the offices are closed on Bank and Public Holidays). A Duty Planning Officer is available for general planning advice between 10am and 4pm Monday to Friday on (020) 8496 6876 or in our reception.

## Interpreting and translation assistance

The Council has prepared this document to assist users of its Development Management Service. If you have any difficulty reading or understanding it because English is not your first language, we will try to help you. Please tick the box, which shows which language you speak, write your name, address and telephone number and return this form, together with the document, to the address given below.

<p>Kansilli e ka pregaditur këtë dokument për tui ndihmuar përdorësve të Shërbimeve të Kontrollit të Zhvillimit. Po patët vështirësi për ta lexuar apo kuptuar sepse Anglishtja nuk është gjuha juaj e parë, ne do të mundohemi t'ju ndihmojmë. Ju lusim shenoni katorrin që tregon se cilën gjuhë e folni, shkruani emrin, adresën dhe numrin e telefonit dhe ktheni këtë formë, së bashku me dokumentin, në adresën e dhënë më poshtë.</p> <p style="text-align: right;">Albanian <input type="checkbox"/></p>	<p>A Junta de Freguesia preparou este documento para assistir os utentes do seu Serviço de Controlo de Desenvolvimento. Se tiver dificuldades em ler ou compreender este documento devido ao inglês não ser o seu idioma principal, nós tentaremos ajudá-lo(a). Assinale o quadrado junto ao idioma que fala, escreva o seu nome, morada e número de telefone e devolva esta folha, juntamente com o documento, para a morada em baixo.</p> <p style="text-align: right;">Portuguese <input type="checkbox"/></p>
<p>لقد أعد المجلس هذه الوثيقة لمساعدة مستخدمي خدمة سيطرة التنمية. وإذا واجهت صعوبة في قراءتها أو فهمها لأن الإنجليزية ليست لغتك الأولى فسنحاول أن نساعدك. الرجاء وضع علامة بالصندوق الذي يبين لغتك وأكمل اسمك وعنوانك ورقم الهاتف وأرسل كامل النموذج مع هذه الوثيقة للعنوان أدناه.</p> <p style="text-align: right;">Arabic <input type="checkbox"/></p>	<p>Dagmada ayaa diyaarisay dukumantigaan si ay ugu caawiso dadka ubbaahan Adeegga Koontaroolka Qorshaynta Dhismaha Magaalada. Haddii aad wax dhib ah kala kulanto in aad fahamto qoraalkaan waayo Ingiriisku maahan luuqaddaada koowaad, waxaan isku dayaynaa in an ku fahanno. Fadlan calaamadi sanduuga muujinaya luuqadda aad ku hadasho, qor magacaaga, ciwaankaaga, taleefoonkaaga, dabadeedna ku soo celi foomka, oo uu lasocdo qoraalkan, ciwaanka hoos ku qoran.</p> <p style="text-align: right;">Somali <input type="checkbox"/></p>
<p>কাউন্সিল এ ডকুমেন্টটি তৈরী করেছে এর ডেভেলপমেন্ট কন্ট্রোল সার্ভিসের ব্যবহারকারীদেরকে সহায়তা করার জন্য। ইংরেজী আপনার প্রধান ভাষা না হওয়ায় এটি পড়তে অথবা বুঝতে যদি আপনার কোন অসুবিধা হয়, তাহলে আমরা আপনাকে সাহায্য করতে চেষ্টা করবো। দয়াকরে আপনি যে ভাষায় কথা বলেন সেই বাস্তব টিক চিহ্ন দিন, আপনার নাম, ঠিকানা ও টেলিফোন নম্বর লিখুন এবং এ ফরমটি ডকুমেন্টটির সাথে নীচের ঠিকানায় ফেরৎ পাঠান।</p> <p style="text-align: right;">Bengali <input type="checkbox"/></p>	<p>El Ayuntamiento ha redactado este documento para ayudar a los usuarios del "Development Control Service [Servicio de Control del Desarrollo]. Si le resulta difícil leer o entenderlo porque el inglés no es su idioma materno, intentaremos ayudarle. Marque la casilla que indica el idioma que habla, rellene el formulario con su nombre, dirección y número de teléfono y devuélvalo, junto con el documento, a la dirección abajo reseñada.</p> <p style="text-align: right;">Spanish <input type="checkbox"/></p>
<p>区议会政府准备了这份文件来介绍我们的发展控制服务。如果因为英文不是您的母语，您不能读懂这篇文章，我们可以帮您忙。请选择中文，填写您的姓名及地址以及电话号码，并将此文件寄回以下给出的地址。</p> <p style="text-align: right;">Chinese <input type="checkbox"/></p>	<p>Belediyemiz bu belgeyi lÿmar Kontrol Hizmetlerinden yararlanlan kimselere yardÿmçÿ olmak amacÿyla hazÿrlamÿs,tÿr. Asÿl diliniz lÿngilizce olmadÿğÿ Ÿ iin bunu okumakta veya anlamakta gÿlÿk ekiyorsanÿz, size yardÿmçÿ olmak isteriz. Lÿtfen hangi dili konuş,tug unuzu belirten kutuyu is,aretleyip adÿnÿzÿ-soyadÿnÿzÿ, adresinizi ve telefon numaranÿzÿ yazdÿktan sonra, bu formu belgeyle birlikte as,ag Ÿdaki adrese gnderin.</p> <p style="text-align: right;">Turkish <input type="checkbox"/></p>
<p>La Municipalit� a publi� ce document afin d'aider les utilisateurs de son service de contr�le de d�veloppement. Si vous avez des difficult�s � le lire ou � le comprendre parce que l'anglais n'est pas votre langue maternelle, nous nous efforcerons de vous aider. Veuillez cocher la case correspondant � la langue que vous parlez, indiquer votre nom, votre adresse et votre num�ro de t�l�phone et renvoyer ce formulaire ainsi que le document � l'adresse figurant ci-apr�s.</p> <p style="text-align: right;">French <input type="checkbox"/></p>	<p>کونسل نے یہ دستاویز اپنی ڈویلپمنٹ کنٹرول سروس استعمال کرنے والوں کی مدد کے لئے تیار کیا ہے۔ اگر آپ کو اسے پڑھنے یا سمجھنے میں کوئی مشکل درپیش ہے کیونکہ انگریزی آپ کی پہلی زبان نہیں ہے تو ہم آپ کی مدد کرنے کی کوشش کریں گے۔ براہ کرم اس خانے پر نشان لگائیے جو آپ کی زبان کی نشاندہی کرتا ہے اور اپنا نام پتہ اور ٹیلیفون نمبر لکھیں اور اس فارم اور دستاویز کو پیچھے دے گئے ایڈریس پر واپس بھیج دیجئے۔</p> <p style="text-align: right;">Urdu <input type="checkbox"/></p>
<p>Name _____ Address _____ _____ _____ Telephone number _____</p>	<p>Return to: Development Management London Borough of Waltham Forest Sycamore House Town Hall Complex Forest Road Walthamstow E4 6PS</p>

Translated by the London Borough of Waltham Forest Interpreting and Translation Service

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