



## Democratic Services

**Location:** Phase II  
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**To:** **COUNCILLOR EDDIE LAVERY**  
**CABINET MEMBER FOR RESIDENTS' SERVICES**

c.c. All Members of the Residents' Services Select Committee  
c.c. Noel Kelly – Place Directorate  
c.c. Perry Scott – Corporate Director of Place

**Date:** 03 May 2023

## Non-Key Decision request

## Form D

### LONDON BOROUGH OF HILLINGDON PLANNING ENFORCEMENT POLICY

Dear Cabinet Member

Attached is a report requesting that a decision be made by you as an individual Cabinet Member. Democratic Services confirm that this is not a key decision, as such, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 notice period does not apply.

You should take a decision **on or after Friday 12 May 2023** in order to meet Constitutional requirements about publication of decisions that are to be made. You may wish to discuss the report with the Corporate Director before it is made. Please indicate your decision on the duplicate memo supplied, and return it to me when you have made your decision. I will then arrange for the formal notice of decision to be published.

Steve Clarke  
Democratic Services Officer

**Title of Report:** London Borough of Hillingdon Planning Enforcement Policy

**Decision made:**

**Reasons for your decision:** (e.g. as stated in report)

**Alternatives considered and rejected:** (e.g. as stated in report)

Signed ..... Date .....

*Cabinet Member for Residents' Services*

# LONDON BOROUGH OF HILLINGDON PLANNING ENFORCEMENT POLICY

<b>Cabinet Member(s)</b>	Councillor Eddie Lavery
<b>Cabinet Portfolio(s)</b>	Cabinet Member for Residents' Services
<b>Officer Contact(s)</b>	Noel Kelly – Place Directorate
<b>Papers with report</b>	Appendix A - London Borough of Hillingdon Planning Enforcement Policy

## HEADLINES

<b>Summary</b>	This report seeks the adoption of a Planning Enforcement Policy that would consolidate planning enforcement practices and serve as a transparent framework for residents and developers on planning enforcement principles and standards. The Policy sets out the service standards which officers will follow when enforcing regulatory planning enforcement legislation.
<b>Putting our Residents First</b>	This report supports our ambition for residents / the Council of: Live in good quality, affordable homes in connected communities.
<b>Delivering on the Council Strategy 2022-2026</b>	This report supports our commitments to residents of: A Green and Sustainable Borough, Safe and Strong Communities, and A digital-enabled, modern, well-run Council.
<b>Financial Cost</b>	There are no direct financial implications associated with the recommendations to this report.
<b>Relevant Select Committee</b>	Residents' Services Select Committee
<b>Relevant Ward(s)</b>	All Wards

## RECOMMENDATION

**That the Cabinet Member for Residents' Services approve the adoption of the London Borough of Hillingdon Planning Enforcement Policy (Appendix A).**

### Reasons for recommendation

This policy will serve as a framework to guide residents, officers and decision makers on enforcement principles and standards. The adoption of the policy will ensure a consistent

approach to planning enforcement and the policy will set out the guiding principles which the Council will follow when considering planning enforcement actions to ensure fairness, transparency, consistency and proportionality.

### **Alternative options considered / risk management**

The alternative option would be to not have a Planning Enforcement Policy. This could leave the Council vulnerable to inconsistencies in approach to planning enforcement actions and could weaken prospects for successful enforcement. It is considered that the adoption of a Planning Enforcement Policy would provide residents with more transparency on the planning enforcement process.

### **Select Committee comments**

None at this stage.

## **SUPPORTING INFORMATION**

### **Background**

Paragraph 59 of the National Planning Policy Framework ('NPPF' – 2021) identifies that effective enforcement is important to maintain public confidence in the planning system. Paragraph 59 of the NPPF continues by advising that local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively and concludes by stating that planning enforcement plans should set out how the Council will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

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.

### **Proposed Planning Enforcement Policy**

The proposed Planning Enforcement Policy (attached as Appendix A) consolidates planning enforcement practices and serves as a framework for residents and developers on planning enforcement principles and standards. The Policy sets out the service standards which officers will follow when responding to suspected breaches of planning control.

Once adopted, this policy will function as the Council's 'local enforcement plan' for the purposes of the NPPF and the policy will be published on the Council's website for residents and service

users to access and will be used by the local planning authority as a framework for conducting planning enforcement investigations.

### **Financial Implications**

There are no direct financial implications associated with the recommendations to this report.

## **RESIDENT BENEFIT & CONSULTATION**

### **The benefit or impact upon Hillingdon residents, service users and communities**

The Planning Enforcement Policy provides information and guidance to residents and service users on the planning enforcement process and serves as a transparent framework on how the local planning authority will investigate alleged breaches of planning control.

### **Consultation carried out or required**

No public consultation was deemed to be required.

## **CORPORATE CONSIDERATIONS**

### **Corporate Finance**

Corporate Finance have reviewed this report and concur with the Financial Implications set out above, noting there are no direct financial implications associated with the recommendation in this report.

### **Legal**

Legal Services confirm that the proposed policy conforms with all relevant legislative frameworks and guidance and that there are no legal impediments in authorising the adoption and implementation of the same.

## **BACKGROUND PAPERS**

NIL.

# APPENDIX A



## **London Borough of Hillingdon Planning Enforcement Policy**



## **1 Introduction**

- 1.1 This policy sets out the London Borough of Hillingdon's approach to any non-compliance with relevant planning legislation enforced by the Council.
- 1.2 The Council's regulatory and enforcement teams are responsible for ensuring compliance with a vast range of legislation which aims to protect the rights and quality of life for residents, businesses and visitors across the borough.
- 1.3 This Planning Enforcement Policy has been prepared to set out the Council's approach to planning compliance and enforcement, and to reflect the national and local guidance as set out in Planning Practice Guidance: Ensuring Effective Enforcement, The London Plan and the London Borough of Hillingdon's Local Plan.
- 1.4 The Planning Enforcement Policy sets a framework for how the Council will manage reports of unauthorised development or breaches of planning control, how any subsequent investigations will be carried out and the means by which the Council can seek to resolve them.
- 1.5 This policy sets out:
  - The background to planning enforcement and the scope of enforcement powers;
  - Service standards for residents;
  - How the Council will prioritise investigations;

- The approach to resolving breaches of planning control;
- How the Council will make decisions on whether to instigate formal enforcement action;
- What happens when formal action cannot be taken;
- How the Council will work with other services and external partners to deal with the effects of unauthorised development;
- The approach to sharing information and keeping service users informed.



## 2 Legislative and policy context

2.1 This policy has been prepared in accordance with the advice contained within the National Planning Policy Framework (NPPF) issued by the Department for Communities and Local Government which states:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*

2.2 Section 55 of the Town and Country Planning Act 1990 defines development as:

*“... the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use of any*

*buildings or other land.”*

- 2.3 Powers to enforce planning controls are given by Parts VII and VIII of The Town and Country Planning Act 1990 (as amended).
- 2.4 In practice, Hillingdon Council resolves many alleged breaches of planning control and secures compliance with approved plans, planning regulations and policies without needing to take formal enforcement action.



### **3 The aims and objectives of the policy**

- 3.1 The Development Control service operates in connection with the Council's statutory role as a local planning authority in the regulation of the use and development of land and buildings under the Planning Acts and related legislation. Given the high levels of development activity, the Local Plan objectives to improve the quality of the environment, the need to pay special attention to conservation areas and listed buildings and to safeguard the amenity of local residents, effective planning compliance and enforcement is a priority.
- 3.2 This Planning Enforcement Policy will set out how Hillingdon Council will use its planning compliance and enforcement powers to:
  - a) Help ensure the credibility of the planning system, and to ensure fairness for those who adhere to planning controls
  - b) Protect residents from the effects of unacceptable development
  - c) Remedy the unacceptable harmful effects of unauthorised development
  - d) Ensure the adopted planning policies applicable to this borough are properly implemented.
- 3.3 The aim of this document is to clarify and set out the Local Planning Authority's procedure for enforcing breaches of planning control. The plan will therefore ensure that officers, councillors and the general public will be aware of the approach to planning compliance and enforcement.
- 3.4 The Council considers that helping residents and those carrying out development in Hillingdon to understand national and local planning legislation is a key element to effectively enforcing planning controls. As residents and developers become more informed and aware of the regulations it is intended that less unauthorised

development work will take place within the borough.

## **4 The principles of planning enforcement in Hillingdon**

4.1 The London Borough of Hillingdon believes in firm but fair regulation. Underlying the policy of firm but fair regulation are the principles of:

- Proportionality in the application of the law and in securing compliance
- Consistency of approach
- Transparency about how the service operates

4.2 It is a well-established principle that enforcement action should be focused on the remedial with the punitive used only to achieve the aim of remedy. If there is an obvious alternative which would overcome the planning difficulties, the authority should feel free to consider it.

4.3 Additionally, it may also be appropriate to consider whether any other public authority (e.g. the highway or environmental health authority) is best placed to take remedial action and work with them to achieve a wider enforced resolution.

### **4.4 Proportionality**

4.4.1 Proportionality means relating any formal or informal enforcement action to the level of harm caused. The action taken by the enforcing authority should be proportionate to the seriousness of any breach.

4.4.2 It is an important principle of the planning system that the use of formal planning enforcement action is a discretionary power of the Council. People who wilfully carry out unauthorised development undermine the planning system and public trust. Contravengers of this type will be dealt with in a firm and determined manner.

4.4.3 Others however, often carry out works genuinely without any knowledge that planning permission or other consents are required.

4.4.4 In considering any enforcement action, the decisive issue for the Council remains whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings, and therefore merit such action in the public interest.

### **4.5 Consistency**

4.5.1 Consistency of approach does not necessarily mean uniformity, it means taking a similar approach in similar circumstances to achieve similar ends. The Council aims to achieve consistency in advice given, the response to incidents, the use of powers and decisions on whether to prosecute or carry out works in default.

4.5.2 When the Council are considering how to resolve breaches of planning control the following matters will be reviewed:

- The scale of the breach and its impact in terms of demonstrable harm

- Matters of fact and degree
- The history of previous incidents or breaches.

4.5.3 Decisions on enforcement action are a matter of professional judgement and discretion needs to be exercised. The Planning Enforcement Team will continue to develop an approach that promotes consistency including effective liaison with other Council services and enforcing authorities.

4.5.4 In some cases, planning applications can be submitted retrospectively to regularise unauthorised development and are determined in the same way as applications for proposed development. However this process does not obviate the need to ensure that the correct permissions or consents have been obtained before carrying out development.

## 4.6 Transparency

4.6.1 Transparency is important in maintaining public confidence in the service's ability to regulate. It is about helping those regulated and others, to understand what is expected of them and what they should expect from the Council. It means making clear the Council has decided to take enforcement action or use other means to resolve a breach of planning control. It also means distinguishing between statutory requirements and advice or guidance about what is desirable or good practice but not compulsory.

4.6.2 To achieve this, the Planning Enforcement Team will regularly publish figures on case compliance, notices served, appeal decisions received, prosecutions heard and direct actions undertaken.

4.6.3 The team will also continue to provide timely and detailed responses to resident and Members' queries adhering to the Council's given response times as stated.

## 4.7 Public Sector Equality Duty

4.7.1 All enforcement action will be undertaken without regard to race, colour, religion, gender, or sexual orientation. Enforcement action taken against an individual or organisation will be consistent with the Council's commitment to equality and diversity. If necessary, during formal enforcement action, correspondence will be translated and interpreters provided.

## 5 Carrying out investigations

5.1 If it is considered works that may constitute development have been carried out without the necessary planning permission (or similar consent) or are being carried out without complying with approved plans, this can be reported to the Council. This is known as a breach of planning control.

5.2 A breach of planning regulations is when any work is done without the necessary consent. Examples include:

- A developer has planning permission but is not complying with the conditions attached to their permission or is not following the approved plans or failing to

- submit required information before starting development
- Displaying a sign or an advert without advertisement consent
- Making a material and unlawful change to the use of a property
- Carrying out works to a listed building without consent
- Demolishing a building within a conservation area without consent
- Felling or carrying out works to a tree in a conservation area or a tree protected by a Tree Preservation Order (TPO).

5.3 The Council will investigate all reported breaches of planning control that are brought to the Council's attention. Investigations are carried out by:

- Discussing and canvassing the experiences of residents and complainants
- Reviewing any photographic and video evidence that may be submitted by residents and complainants
- Carrying out a site inspection should sufficient information not be readily available to allow for a full assessment
- Researching the relevant planning history for the site or address
- Contacting the owners or occupiers of the premises
- Checking other relevant records for the property, such as Council Tax or Business Rate records
- Reviewing other sources of information, such as aerial photographs and GIS data

Once the Council has carried out an initial investigation, a determination will be made as to whether a breach of planning control has occurred and consideration will be given to next steps.

#### 5.4 **Priorities**

Cases will be prioritised according to the seriousness of the alleged breach, the harm that is being caused and the level of public interest. Unfortunately, it will not be possible for the Council to pursue all cases which involve a breach of planning control as a priority due to resource constraints. The Council will address the most harmful and egregious breaches and follow through the action until an acceptable resolution to the breach of planning control has been achieved.

Cases which will be prioritised as urgent are as follows:

- New complaints of serious irreparable harm such as unauthorised works to a listed building, unauthorised works to a protected tree and unauthorised demolition work in a conservation area
- Ongoing Court or Appeal matters
- New complaints regarding unauthorised encampments on private land
- Any otherwise urgent cases that have attracted significant and widespread public and political interest

Officers will review the extent of the information that has been provided by residents (including any details of the alleged breach of planning control and any photos that may have been provided) and this will in part inform the decision on how best to proceed with the planning enforcement investigation. Should it be determined that a site visit is required, the Council will endeavour to undertake a

site visit on cases which are prioritised as urgent within 3 working days of receipt of the complaint. For all other cases the Council will endeavour to undertake a visit within 15 working days of receipt of the complaint.

## 5.5 Instances where action may be taken

Breaches of planning control which may require action could include:

- Unauthorised change of use of a building or land
- Development not built in accordance to approved planning permissions
- Conditions of a planning permission not being met or discharged
- Unauthorised works to a listed building, a property or building in a conservation area or property or building where permitted development rights have been removed (Article 4 direction)
- Unauthorised extensions to a residential property
- Unauthorised outbuildings
- Unauthorised display of a sign or advertisement
- Certain engineering operations
- Unauthorised satellite dishes or aerials, especially in conservation areas.

## 5.6 Instances where action cannot be taken

In some cases the Council may be unable to take formal action against unauthorised development that is reported by members of the public. For example when:

- The works do not constitute development under section 55 of the Town and Country Planning Act 1990
- The works or change of use fall within 'permitted development' defined by the Town and Country Planning General Permitted Development Order 2015 (as amended)
- An advertisement benefits from 'deemed consent' under the Town and Country Planning (Control of Advertisements) Regulations 2007
- Immunity from enforcement action has occurred by way of a use being established continuously for a period of 10 years (4 years for a self-contained residential unit) or if building works have been completed more than 4 years ago
- A trivial or technical breach of planning causes no harm to the local environment or the amenity of people living nearby
- The works are considered too minor to fall under the scope of planning control – this is known by the Latin term "de-minimis"
- Issues solely relating to boundary positioning and land ownership disputes
- Retrospective planning permission has regularised a previous breach. Please note that when a retrospective planning application has been accepted for a breach which is under investigation, unless there are significant timebound issues or in other extraordinary circumstances, enforcement action will be held in abeyance until the application is decided upon.

## 5.7 Where planning enforcement action cannot be taken the Council will endeavour to help find or recommend an alternative solution to resolving the matter. This may involve forwarding the matter to any relevant Council departments or by pointing

to possible external bodies or remedies if apparent.

## **6 Options for securing planning compliance**

- 6.1 The Council recognises the importance of establishing effective control over unauthorised development and will not condone wilful breaches of planning control. It must however be remembered that enforcement is a discretionary activity. Apart from some listed building and advertisements cases, it is not illegal to carry out works without the relevant consent. It only becomes, illegal after the Council issues an enforcement notice and those in breach fail to comply with the requirements of the notice.
- 6.2 **Expediency and how the Council will investigate an alleged breach of planning control**
  - 6.2.1 It is important to note that a breach of planning control is not in itself a reason to take enforcement action. The Council will decide whether or not it would be expedient to take enforcement action to resolve the breach of planning control (and the extent of that action). In terms of the assessment of expediency in Planning Enforcement, the Council is obligated to work within the established national guidelines and policies including the National Planning Policy Framework (Paragraph 58) and Planning Practice Guidance (Ensuring effective enforcement) (<http://planningguidance.communities.gov.uk/blog/guidance/ensuring-effective-enforcement/>) in order to resolve breaches of planning control.
  - 6.2.2 Planning Practice Guidance states explicitly that when local planning authorities are making a determination on the most appropriate way forward, formal enforcement action should be avoided where there is a trivial or technical breach of control. This may apply where the breach does not cause material harm or adverse impact on the amenity of the site or the surrounding area. It also states that enforcement action should not be taken where development is acceptable on its planning merits and where formal enforcement action would solely be to regularise the development.
  - 6.2.3 In considering whether it is expedient to take enforcement action, the Council will take into account its relevant planning policies and all other material considerations including relevant appeal decisions and case law. Consideration will also be given to the reasonable time and resources available to carry out the enforcement function.
  - 6.2.4 The Council will assess whether a breach of planning control has a detrimental impact on public amenity or causes harm to land and buildings. The Council considers that the objective of planning enforcement is remedial in the first instance and as such will encourage its officers to work with those in breach of planning control to achieve favourable outcomes without having to issue a formal notice. In many of the cases investigated, compliance is achieved through negotiation and without the need for enforcement action.
  - 6.2.5 In cases where those in breach are not positively engaging with officers or fail to meet agreed deadlines, formal action will be considered and notices issued where it is appropriate to do so.

6.2.6 An officer will seek to work with those in breach to voluntarily resolve contraventions where deemed appropriate, thereby avoiding the need for formal enforcement action. This may mean informal negotiation to remedy harmful aspects of a breach of planning control in advance of the submission of a planning application. Section 73A of the Town and Country Planning Act 1990 ("the Act") does allow for the submission of planning applications for development and changes of use that have already been carried out without planning permission. This legislative provision allows for planning permission to be granted or refused for development carried out before the date of the application. The Planning Authority will assess these applications in line with the standard approach for processing planning applications and the development will be assessed against the relevant local, regional and national planning policies.

6.2.7 Where planning applications are submitted under Section 73A of the Act, these applications will be subject to the statutory time periods set out in the Act. The Council aims to take a decision on these submissions within an 8 week period, however there can be delays experienced during the planning process that requires a longer determination period. Should the Council proceed to refuse planning permission for these applications, it is important to note that there is a right to appeal to the Secretary of State (SoS). The timelines for processing any appeals are set by the SoS, however on average these appeals can take between 3 to 9 months to process depending on the complexity of the case.

6.2.8 Where planning submissions are forthcoming under Section 73A of the Act, planning enforcement investigations may be held in abeyance until such time as these applications and any subsequent appeals are determined.

6.2.9 When informal enforcement action is not possible or appropriate, to obtain a satisfactory voluntary resolution to a contravention and if it is considered expedient to take formal enforcement action to rectify or resolve the breach, the main options for formal enforcement action are summarised below.

### 6.3 **Enforcement Notice**

This is the most common method of enforcement action against unauthorised development and there is a right of appeal against the notice. The use of the Enforcement Notice is an effective tool and such notices will be served in cases that cause significant harm or where the transgressor has made clear they are unwilling to remedy the breach. The transgressor has the right to appeal against the notice to the planning inspectorate.

### 6.4 **Section 215 Notices**

Where the condition of land or a building is adversely affecting the amenity of a neighbourhood the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to remedy the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner.

### 6.5 **Breach of Condition Notice**

These can be used where conditions attached to a planning permission are not adhered to. There is no right of appeal against this notice to enforce a planning condition.

## 6.6 **Listed Building Notice**

This is used to remedy unauthorised works to a listed building and there is a right of appeal against the notice.

## 6.7 **Advertisement Removal Notice**

These can be used to remove illegal advertisements which do not have either express or deemed advertisement consent to be displayed. There is a right of appeal to the magistrates' court.

## 6.8 **Discontinuance Notice**

Where an advertisement is being displayed with the benefit of deemed consent, a planning authority may serve a discontinuance notice on the owner and occupier of the land and on the advertiser, requiring it to be removed, where it considers the removal to be necessary "to remedy a substantial injury to the amenity of the locality or a danger to members of the public".

## 6.9 **Stop Notice**

Stop notices are used in conjunction with an enforcement notice where the breach of planning control is causing dangerous, irrevocable and irreversible harm. It is only used in extreme and immediate cases i.e. to protect permanent imminent damage to listed buildings, to prevent works that could damage trees with a Tree Preservation Order or to stop demolition in conservation areas. In such cases where Stop Notices are issued the Council may be liable to pay compensation if it is later decided that the Stop Notice was not appropriate or proportionate.

## 6.10 **Temporary Stop Notice**

These are similar to Stop Notices (above) but can be served without an enforcement notice and only last for up to 28 days. A Temporary Stop Notice (e.g. unauthorised building works) are issued only where it is appropriate that the use or activity should cease immediately i.e. to protect permanent imminent damage to listed buildings, to prevent works that could damage trees with a Tree Preservation Order or to stop demolition in conservation areas. It may be issued even where planning permission has been granted for development, in a case where the developer is not complying with conditions attached to the permission.

## 6.11 **Injunction**

This involves seeking an order from the court preventing an activity or operation from taking place. Failure to comply with the requirements of an injunction can lead to an unlimited fine and / or imprisonment.

## 6.12 **Prosecution**

Where criminal offences are committed, cases will be considered for prosecution in accordance with the Code for Crown Prosecutors issued under Section 10 of the Prosecution of Offences Act 1985 and the London Borough of Hillingdon's Enforcement Policy.

## 6.13 **Default Powers**

The Council may enter the land and take the necessary action to secure compliance when enforcement notices are in effect. This is only used in extreme cases and when resources allow. The Council will seek to recover all costs

associated with carrying out works in default.

#### 6.14 **Proceeds of Crime Act 2002 (POCA)**

Confiscation orders under the Proceeds of Crime Act 2002 (POCA) are frequently used against fraudsters and drug-dealers to deprive criminals of the financial gain they have received from their criminal conduct. With a few exceptions, breaching planning control is generally not a criminal offence, but such activities can become criminal where they continue to occur in breach of a valid, effective enforcement notice. If the notice is not complied with, the LPA has a number of statutory remedies it can rely on, including prosecutions and direct action. Under POCA not only is the offender punished by forfeiting the profits attributable to the planning breaches, but the local authority receives a share of those profits.

### 7 **Appeals**

7.1 There is a right of appeal against most statutory notices issued by the Council (exceptions are Breach of Condition Notices, Stop Notices and Temporary Stop Notices). Appeals are in most cases made to Secretary of State 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 their right of appeal.

7.2 During an appeal, enforcement action is held in abeyance and no further action can be taken until the appeal is decided. The timelines for processing any appeals are set by the SoS/Magistrates' Court, however on average these appeals can take between 3 to 9 months to process depending on the complexity of the case.



## 8 Service Standards

### 8.1 Service standards for reporting a breach of planning control

8.1.1 To initiate a planning compliance investigation, complaints should be made via the standard form which can be found on the Council's website (<https://www.hillingdon.gov.uk/article/7568/Planning-enforcement>) or via the Council offices.

8.1.2 Before validation and allocation of a complaint, the following information is required:

- Full address of the property that is the subject of the alleged breach of planning control.
- Confirmation that unauthorised work(s) or change(s) of use have taken place. Please note that if works have not commenced, it cannot be considered that a breach of planning control has occurred, therefore an investigation cannot take place.
- Full details of suspected breach of planning control. (A complaint alleging that a development is not built-in accordance with the approved plans is not sufficient. A full explanation of the alleged breach should be provided.)
- Details including the complainants contact details - anonymous complaints will not be investigated.

Complainants are advised to note that the submission of supplementary photos and/or other documentary information such as detailed logs can reduce the timeframe for investigating alleged breaches of planning control. Should this information not be provided as part of the original complaint then this may lead to delays in determining whether a breach of planning control has taken place.

8.1.3 The Council will not investigate anonymous complaints as it would not be possible to verify particular aspects of the complaint at a later stage. A complainants identity will be kept confidential insofar as the law permits. Names and addresses will not be revealed to the person or organisation involved in the alleged breaches of planning control. In certain cases, complainants may be asked to assist the Council by providing evidence at an appeal or in court. The Council will seek the complainants' consent beforehand. If an appeal is lodged or a case goes to court, any representations received during that appeal or court case may become public documents that are available for public inspection.

8.1.4 In respect of complaints received about alleged breaches the Council endeavour to work to the following service standards:

- (i) Written acknowledgement of receipt of a valid complaint *within 10 working days (via email)*.
- (ii) In cases of reported breaches of planning control involving serious irreversible harm (such as damaging works to a listed building), the complaint will be investigated as a matter of priority, usually *within 48 working hours* of receipt. Urgent action will be instigated to stop unlawful activity where serious harm being caused makes this appropriate. Such cases

include damage or demolition of listed buildings or any other cases where there is a serious and imminent danger of harm or irreversible damage to property.

- (iii) Other than in cases where immediate or urgent action may be required, initial investigation will usually be undertaken *within 15 working days* of case validation.
- (iv) Should a breach of planning control be identified following initial investigation and should it be determined that the breach of planning control requires further planning enforcement action (issue of warning letter etc), the planning enforcement case will be allocated to a Planning Enforcement Officer for further action. Written acknowledgement of this allocation (allocation letter) will be issued to the complainant (via email) and this correspondence will contain the contact details for the Planning Enforcement Officer.
- (v) Should it be determined that a breach of planning control has not been identified or that it is not expedient to progress with a planning enforcement investigation, the planning enforcement case will be closed and notification of the case closure and the reasons for the case closure will be issued to the complainant within 28 working days.
- (vi) For cases requiring further investigation/action, within 4 weeks of allocation, the Planning Enforcement Officer will provide a written update to the complainant on the status of the investigation. At this stage in the process, the Planning Enforcement Officer will be in a position to inform the complainant on the progress of the investigation and likely next steps. Through accessing the Council website, complainants can also check the Council's on-line enforcement tracker to check the status of the enforcement investigation.

## **9 Service standards where breaches of planning control have been identified**

- 9.1 Under normal circumstances, prior to taking formal enforcement action, the officer concerned will fully and openly discuss the circumstances of the breach and where possible attempt to resolve any points of difference. The Council will aim to contact a person in breach following a site visit having taken place and once the necessary remedial action is determined. The Council will aim to advise those person(s) considered in breach of any planning requirements as to what they are required to do in order to remedy the breach of planning control, giving a reasonable timescale for remedy of the matter.
- 9.2 Should a retrospective application for planning permission be put forward as an option, the letter or email will also advise those in breach on the expected timescales for submission or remedy. In almost all cases written notification of the breach and opportunities to rectify the situation will be given prior to any action being taken. However, this may not be possible if urgent or immediate action is required.
- 9.3 When breaches appear to have occurred, officers will:
  - Communicate clearly to the responsible party or their planning agent, identifying the problem and the measures that may need to be taken to achieve compliance.
  - Where officers consider there is no significant planning harm or that harmful

effects may be satisfactorily addressed by mitigation measures, the enforcement team will allow a reasonable period for the submission of a retrospective planning application to regularise a breach of planning control.

- Where initial attempts to persuade those in breach to voluntarily remedy the harmful effects of unauthorised development fail, negotiations will not delay any formal enforcement action which may be required to make the development acceptable. Officers will be keen to see that persons in breach are pro-actively seeking to resolve breaches of planning control rather than attempting to delay matters.
- Initiate formal enforcement action when necessary, after being satisfied that there is a clear breach of planning control that would unacceptably affect public amenity of the existing use of land and building meriting protection in the public interest.
- In the case of formal action being authorised the contravener's rights of appeal will be explained to them.

9.4 Persistent offenders and those who seek to exploit the planning process at the expense of others will be dealt with using appropriately targeted enforcement action.

## 9.5 Particular Residents' Needs

9.5.1 The service will endeavour to be flexible in responding to residents' needs by adapting the method of operation to suit the resident. Documents can be translated into other languages if required. Arrangements can also be made for interpreters where this is necessary.

## 10 Reporting and Information

10.1 The Council is committed to educating and informing Members and the public in relation to the work carried out by its Planning Enforcement Team. Regular service standards regarding investigations contact are shown under Point 8 of this document (*Our Service Standards*). As a wider objective however, the Council will attempt to strike a balance between informing the public about planning legislation through articles in Council publications as well as publicising significant enforcement action, appeals and prosecutions. It is important to highlight cases where action has been taken to discourage others from breaching planning regulations and ensure that the public have confidence in the enforcement service.

10.2 If you have made a complaint or if you are interested in a particular property, you can check whether formal enforcement action has commenced, for example whether an enforcement notice has been served against the property. This information can be accessed through the on-line enforcement tracker page, using the following link:

<https://planning.hillingdon.gov.uk/OcellaWeb/enforcementSearch>

- 10.3 General advice for residential queries or assistance with completing planning application forms can be requested through submitting an email request to [planning@hillingdon.gov.uk](mailto:planning@hillingdon.gov.uk). Alternatively, enquires can be registered with the contact centre on 01895 250230, and an officer will respond as soon as possible. More details can be found on the Council's website.
- 10.4 Pro-active campaigns will be used to educate the public in relation to the targeted breaches of planning control through Council publications and press releases. Local community groups may also be encouraged to assist in targeted campaigns in their particular area.
- 10.5 As part of the Council's commitment to being open and accountable a yearly report will be presented to the Planning Committee and neighbourhood forums regarding planning enforcement.
- 10.6 The planning enforcement section of the Council's website will be updated on a regular basis with relevant planning enforcement related news stories and data.

## **11 Shared Enforcement Role**

- 11.1 Where there is a shared enforcement role, officers will liaise fully with any relevant internal and external enforcement departments and agencies at the earliest possible stage to agree a suitable approach to any enforcement action. Partners will be kept updated with the progress of any shared enforcement matter, as necessary. The Council may also carry out joint operations with partner enforcement agencies from time to time.
- 11.2 The Planning Enforcement Team will work alongside internal enforcement teams from Fraud, Licensing, ASBET, Safer Neighbourhoods Team, Private Sector Housing and Building Control amongst others as part of a joint working group to identify cases where collaborative work could benefit from collective knowledge and action on matters. Relevant information will be shared in order to advance investigations and fully support residents and members.
- 11.3 External partner enforcement agencies include, but are not restricted to:
  - Metropolitan Police Service
  - Home Office
  - UK Border Force
  - HMRC
  - Health & Safety Executive
  - Food Standards Agency
  - Environment Agency
  - Gambling Commission
  - London Fire Brigade
  - DEFRA
  - DHSE
- 11.4 Officers will endeavour to co-ordinate visits and actions with other such agencies to achieve the most efficient and effective outcomes and to minimise inconvenience for those who are being visited, inspected or subject to enforcement action.

11.5 Information concerning allegations outside the remit of the services covered by this policy may be referred to the appropriate enforcement authority with any contact details (by agreement) to enable that agency to investigate the allegation.

## **12 Delegation of Authority**

12.1 The Council's scheme of delegations specifies the extent to which enforcement powers are delegated to officers and elected members.

12.2 Officers are authorised to carry out enforcement in all cases to a level which is considered by the Council, to be appropriate given their training, qualifications and/or experience.

## **13 Governing legislation and codes**

13.1 The Council will comply with and follow the requirements laid out in the following legislation and codes when considering the approach to investigations and enforcement:

- Regulators Code (Better Regulation Delivery Office) 2014
- Human Rights Act 1998
- Data Protection Act 2018
- Regulatory Enforcement and Sanctions Act 2008
- Code for Crown Prosecutors
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Criminal Justice and Police Act 2001

13.2 These Acts and associated guidance dictate how evidence is collected and used and give a range of protections to both investigators and defendants.

## **14 Equality Act 2010**

14.1 The Equality Act 2010 (EA 2010), which came into effect on 1st October 2010, created the Public Sector Equality Duty (the Equality Duty), which replaced the previous public sector equality duties relating to race, disability and sex, and extended protection to the new protected characteristics listed in EA 2010 relating to age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment.

14.2 Section 149 of the EA 2010 is contained in Part 11 of the Act and imposes the Equality Duty on authorities and provides as follows:

*“(1) – A public authority must, in the exercise of its functions, have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”*

- 14.3 It is therefore necessary for the authority, in consideration of this policy, as with the consideration of any other policy, to ensure that the above requirements have been met. There are no equality issues arising from taking forward the measures set out in this policy.
- 14.4 The procedures set out in this policy regarding the investigation of any alleged breaches of planning control have been assessed in the context of the Human Rights Act and Equalities Act. The policy procedures to resolve these matters are considered proportionate and to be in the public interest in order to uphold the planning laws of the land and protect against harm caused to the amenity of the area.
- 14.5 All planning enforcement investigations will be taken forward in strict accordance to the public sector equality duty as detailed under Part 11, Section 149 of the Equality Act 2010.

## **15 Complaints about the Council's enforcement activity**

- 15.1 The Council has a Corporate Complaints Procedure, easily accessible to businesses, the public and consumer groups and details can be found on the Council website [www.hillingdon.gov.uk](http://www.hillingdon.gov.uk).