

# Planning Enforcement


## What is Planning Enforcement?

The process which investigates alleged breaches of planning control. It will assess whether any planning harm is being caused by the unauthorised development and considered the expediency of whether formal action is required.

## Why is it important?

Paragraph 59 of the [National Planning Policy Framework](#) states:

*“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is **discretionary**, and local planning authorities should act **proportionately** in responding to the suspected breaches of planning control.”*



# What is a breach of planning control?

---

Section [171A](#) of the Town & Country Planning Act 1990, defines a breach of planning as:

- Carrying out development\* without the required planning permission; or
- Failing to comply with any condition or limitation subject to which planning permission has been granted.
- \*Development includes **material** change of use of land.

Other matters:

- Unauthorised advertisements
- Unauthorised works to a Listed Building
- Unauthorised works to protected trees (TPO)
- Untidy Land (Section 215)
- High Hedges ([ASB Legislation](#))



# Start of an Investigation..

---

**CHECK** – Within 1 – 15 working days (dependant on allegation)

- Is the allegation a planning matter!!
- Has planning permission been granted and reporter unaware?
- Check approved plans/verify allegation
- Initiate contact with relevant parties/arrange site visit (later date)

**INVESTIGATION**

- Complete site visit (if necessary)
- Recommend course of remedial action if necessary. (voluntary action)
- Be reasonable with time scales for action.
- Is it **expedient** for formal action? What are the other options/harm/risk?

# Remedial Actions..

---

- There are numerous options to remedy a breach of planning control, and all must be considered prior to taking formal action.
- Options Include:
  - Physical alterations to bring the development back in line with permitted development/approved plans. (fallback position)
  - Retrospective Planning Application Submission
  - Application to vary approved scheme/conditions (section 73 applications)
  - Non-Material Amendment application (minor discrepancies)
  - Lawful Development Certificate (time limit immunity)

# When is formal action required?

---

If voluntary action to remedy the breach/planning harm is not taken or is not acceptable, then the Council needs to consider whether its **expedient** to take formal action.

Government advice is that formal action should always be the **last resort**.

When considering formal action, the authority must always keep in mind;

- Grounds of Appeal (certain notices)
- Does the planning harm warrant formal action?
- Cost/Gains to taking formal action (public interest)

# Formal Notices

---

## OBTAINING INFORMATION:

Planning Contravention  
Notice (PCN)

Requisition for  
Information Notice (RFI)

## NOTICES:

Temporary  
Stop Notice  
(Max 28 days)

Breach of Condition  
(BOC)

Section 215  
(S215 – Untidy Land)

Enforcement Notice (EN)

STOP  
NOTICE

**INJUNCTIONS**

**DIRECT ACTION!**

# Grounds of Appeal

---

- Most notices have some rights of appeal, for EN's the grounds are;
  - A. Planning permission should be granted.
  - B. The breach detailed on the notice has not occurred.
  - C. The matters on notice are not a breach of planning control.
  - D. Time limit Immunity. (4/10 year rule)
  - E. Notice not served on all parties.
  - F. The steps required by the notice are too excessive to remedy harm.
  - G. Time given to comply with notice too short.

# Timescale for Enforcement Appeals

- As of January 2024:

## **Enforcement appeals**

Includes s174 enforcement appeals, s39 enforcement listed building appeals and lawful development certificate appeals

	<b>Median (weeks)</b>	<b>Mean (weeks)</b>	<b>Decisions</b>
<b>Written Reps</b>	46	51	167
<b>Hearings</b>	70	72	23
<b>Inquiries</b>	81 *	63*	17*



# What next for Enforcement – LURA

---

- The Levelling Up and Regeneration Bill become law on the 26<sup>th</sup> October 2023. This has introduced some interesting enforcement powers – BUT – most are not yet in force (waiting on Mr Gove):
  - Temporary Stop Notices in relation to Listed Buildings - 😊
  - Development Commencement Notice 😊
  - Completion Notices “termination of planning permission” - 😞
  - Time Limits for Enforcement – 10 years only - 😊 😞
  - Duration of TSN – increase “up to” 56 days - 😊
  - Enforcement Warning Notices (EWN) - 😊
  - Restriction on Ground A Appeal - 😊
  - Higher fines for failing to comply with BOC/S215 Notice - 😊

# What next for NWBC Enforcement...

---

- New(ish) Team:
  - Ryan Lee-Wilkes – Principal Enforcement Officer
  - Julian Turner – Planning Enforcement Officer (Trainee)
  - Josie Moore – Planning Enforcement Officer (Trainee)
- ★ Work to clear the backlog of cases... we will get there..
- ★ Publication of Enforcement Register online (some data missing)
- ★ Implement new planning software system
- ★ Improve website for Planning Enforcement – allow reports to be made online
- ★ Expand on proactive enforcement monitoring
  - ★ Building Control Commencement Monitoring
  - ★ Temporary Permission Monitoring
  - ★ Permitted Development Restrictions Monitoring

# Thank you!

## Any questions?..

Enforcement Team Contact Email:

[planningenforcement@northwarks.gov.uk](mailto:planningenforcement@northwarks.gov.uk)

For individual case updates please contact the case officer directly.