

Planning Enforcement Update

DEVELOPMENT CONTROL COMMITTEE



DATE	18th January, 2023
PORTFOLIO	Housing and Development Control
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PURPOSE

1. To provide Members with an update on the Council's work programme of planning enforcement.

RECOMMENDATION

2. That Members note the content of the report.

REASONS FOR RECOMMENDATION

3. To ensure that Members of Development Control Committee are aware of the work that the Council's Development Control Team undertake through the planning enforcement service.
4. To provide Members with information on the volume and response provided by the planning enforcement service.

SUMMARY OF KEY POINTS

Planning enforcement work programme review

5. Between 1st October 2021 and 31st October 2022, the Council received 220 new complaints relating to planning enforcement. The Council also had a substantial number of ongoing matters which formed part of the work programme during this period. The Council takes a stepped approach to enforcement and complaints are investigated in line with the priorities set out in the Planning Enforcement Plan. Regular discussions taken place within the Development Control Team to discuss new matters so that an agreed approach can be implemented efficiently in each case. Monthly planning enforcement meetings are also held within the Development Control Service where outstanding matters are discussed and the progress made on cases is assessed.
6. Planning enforcement is a discretionary power of the local planning authority, and the Council will only act where it is expedient to do so. When a potential breach of planning

regulations is identified, the matter is investigated to establish whether a breach has in fact occurred. Where a breach of planning control has been established, the Council must then take a decision whether it is expedient to take enforcement action as any action taken should be commensurate to the harm caused by the breach.

7. During the period 1st October 2021 to 31st October 2022 **102 cases** have been closed with no further action taken due to the investigation concluding that there was no breach of planning permission, or the breach was such that it would not be expedient to take formal enforcement action. The majority of these cases will be where the investigation has concluded that there is no breach of planning regulation.

Case study example of no breach:- An enquiry was submitted in relation to the erection of a boundary fence in between two dwellings which was thought to be over the permitted height of 2 metres. A site visit was conducted to ascertain if a breach had occurred. In this instance the ground level was slightly higher on the side where the fence had been constructed and when measured from this side the fence did not exceed 2 metres. Due to the land levels between the two properties the fence appeared to be slightly higher on the opposite side but this did not result in a planning breach. The legislation was explained and the case was closed as no further action was required.

Case study example where it was not expedient to take formal action:- An enquiry was submitted in relation to the erection of a large outbuilding which was thought to exceed the size and height allowance that a building can be built to within the rear garden of a dwelling. It had been erected close to the boundary fencing and did slightly exceed the height allowed under permitted development by approximately 6 inches in one area due to the garden levels on which the structure had been erected. An assessment was made and it was concluded that the building did not cause any issues in relation to light and that overall there was no impact on the neighbouring property. It was therefore not considered expedient to take any further action and the case was closed.

8. For those breaches where it is concluded that action is required, it may be appropriate to invite a planning application with the aim of regularising the planning matter and establishing the appropriate permission. This will allow the works to be assessed in line with national and local planning policies and introduce the option to impose conditions to control the nature of the development. If the application were to be refused, the applicant would have the right of appeal to The Planning Inspectorate.
9. During the period 1st October 2021 to 31st October 2022 **13 applications** have been received following an enforcement complaint.

Case study where action has been taken:- An enquiry was submitted in relation to a garage building which appeared to be in use for living purposes. This use constituted a breach of planning legislation as a change of use had occurred. The case was assessed and it was considered that the use would be acceptable, on this basis a planning application was invited to regularise the use. An application was submitted and approved with conditions which required slight alterations to the building structure to minimise the impact on the surrounding area.

10. There are a small amount of cases that we deal with each year where there is a breach of planning regulations but these cases can be resolved by minor alterations to works that

have been carried out bringing the development in line with 'permitted development' as set out under The Town and Country Planning (General Permitted Development) (England) order 2019 (as amended). Following these amendments planning permission is not required.

11. During the period 1st October 2021 to 31st October 2022 there have been **25 cases** where minor amendments have resolved the breach of planning regulations and brought works carried out within the scope of permitted development that does not require formal planning permission.

12. As of 31st October 2022, from the 220 planning enforcement enquiries received during the previous 13 months, the Development Control Service have **80 live cases** that remain under investigation or are the subject of further enforcement action.

13. As set out above and in line with Government Guidance, the Council seeks to work with residents of the borough and negotiate remedies to planning breaches that can be resolved without the need to resort to formal action. However, in some cases, the breach of planning regulations is so severe, or cooperation with the Council's approach is not forthcoming, and formal action is necessary. During the period 1st October 2021 to 31st October 2022, the Council has taken the following formal enforcement action:

- Served **4** Planning Contravention Notices,
- Served **4** Enforcement Notices,
- Served **1** Temporary Stop Notice.

14. From the 4 enforcement notices served the Council has received 2 appeals. Currently 1 of these appeals remains ongoing and 1 was recently won by the Council. 1 Enforcement Notice was complied with and 1 is awaiting prosecution for non-compliance.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

15. There are no direct financial implications associated with this report.

POLICY IMPLICATIONS

16. There are no policy implications associated with this report.

BACKGROUND PAPERS

17. None

FURTHER INFORMATION

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