

LONDON BOROUGH OF BROMLEY



PLANNING ENFORCEMENT POLICY

INTRODUCTION

The Borough of Bromley is the largest in London by area and occupies 59 square miles, much of which is within the Metropolitan Green Belt. There are also 44 conservation areas in Bromley, designated because of their special architectural or historic interest.

The enforcement of planning control is very important to the Borough in order to:

- Remedy the unacceptable harmful effects of unauthorised development
- Help protect the credibility of the planning system, and to ensure fairness for those who comply with planning controls
- Ensure that development is carried out in accordance with planning permissions and planning conditions
- Ensure that the adopted planning policies in the Bromley UDP are implemented.

It is an important principle of the UK planning system that the use of formal planning enforcement powers is discretionary and is used to remedy harm caused by a breach of planning control. Further explanatory information and frequent questions and answers about planning enforcement are given on the Council's website.

ENFORCEMENT OF PLANNING CONTROL

The present enforcement regime dates from around 1990 and its evolution over the past 25 years provides the context for the current system. Significant improvements to the enforcement system were made following the Carnwath Report on Enforcing Planning Control (1989). Subsequent legislation, including the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991, introduced additional measures such as Planning Contravention Notices and Breach of Condition Notices to deal with breaches of planning control more effectively.

Subsequent policy guidance including PPG18 (Enforcement Planning Control) and Circular 10/97 (Legislative Provisions and Procedural Requirements) and a Good Practice Guide for Local Planning Authorities' provided further support for taking enforcement action. The NPPF published in 2012 provides further policy guidance stating that:

“Effective enforcement is important as a means of maintaining public confidence in the planning system and advises Local Planning Authorities to consider publishing a local enforcement plan to manage enforcement proactively.”

It should also be noted that, other than in respect of works to a listed building, the felling or lopping of trees covered by Tree Preservation Order or the display of a sign or advertisement, it is not an offence to carry out development without planning permission or other related consents. Works carried out without the benefit of planning permission are termed as being “unauthorised”. The retention of unauthorised works only becomes illegal if such works are retained in contravention of an enforcement notice which has taken effect and is not the subject of a current appeal.

INVESTIGATING ALLEGED BREACHES

Not all buildings works, changes of use, demolition, display of advertisement signs or tree works require planning permission from the Council, as local planning authority and may be ‘permitted development’. However there are many types of development which may involve breaches of planning control, such as :

- Unauthorised building works
- Unauthorised changes of use
- Non-compliance with plans or conditions
- Unauthorised alterations to listed buildings and conservation areas
- Unauthorised advertisements

PRIORITIES FOR ENFORCEMENT

The Council should ensure that its resources are used in the most effective manner, and it is common practice to prioritise enforcement cases according to the degree of harm being caused by the breach. This may be summarised as follows:

High Priority – unauthorised development which is causing immediate or irreparable harm eg. erection of a building without permission, unauthorised works to a listed building, felling of protected trees, deposit of waste material.

Medium Priority – Unauthorised development which causes some harm to the locality in terms of loss of amenity or highway hazards. Examples might include vehicle repairs, erection of large domestic extensions or outbuildings, change of use of agricultural buildings or breaches of conditions relating to hours of use.

Low Priority – Breaches of planning control which involve unauthorised development but cause little or no harm to the locality Examples may include erection of fences or outbuildings marginally in excess of permitted development tolerances or minor variations to approved plans which have no material impact on the amenities of local residents.

Complaints about alleged breaches of planning control will be dealt with in accordance with the following procedures and principles:

MAKING A COMPLAINT

Confidentiality of a complainant's identity will be safeguarded at all times

To initiate a planning enforcement investigation, complaints should normally be made in writing - by letter, email or via the standard complaint form on the Council's website. This should include the identity of the complainant (which will be kept confidential), the full address at which the alleged breach is taking place, a short description of the alleged activity and the harm being caused. In exceptional circumstances, such as when emergency action is required, investigations can be initiated by a telephone call.

Planning applications and appeals have clearly defined targets for determination, for example 8 weeks for a planning application. Defining targets for enforcement cases is less straightforward as there are many variables which are beyond the Council's control. For the process to be transparent and fair to all the following timescales are suggested:

Complainant – targets and timescales

- Complaint acknowledged within 5 working days
- Site visit within 5 working days wherever possible
- Complainants advised of progress at significant stages throughout the process
- Notify complainant when notice issued within 10 working days
- Notify complainant if appeal lodged within 10 working days
- Notify complaint of closed case and reasons why within 10 working days

Contact with owner/occupier

Before deciding whether any further action should be taken including enforcement action the investigating officer will discuss the circumstances of the breach and where possible resolve any points of difference. A warning will normally be given (including a caution that the works carried out may require planning permission and are carried out at the owners risk.), and a timescale to comply with the planning requirements. In such cases written notice of the breach and the requirements to conform with planning legislation will be given before any action is taken. However, this may not be possible if urgent enforcement action needs to be taken.

Targets and timescales

- Contact owner/occupier and visit site within 10 working days
- If breach identified, advise owner/occupier of the remedial steps required, timescale and consequences of taking no action within 10 working days of site visit
- If breach accords with planning policies request application for retrospective planning permission to be submitted within 14 days
- If development does not accord with policy allow a reasonable period (at least 14 days dependent on the type of breach) to rectify voluntarily
- Failing the above, seek authority to take appropriate action to rectify breach
- Send letter before action giving prior notice of taking formal action
- Notify owner/occupier of proposed course of action.

Outcome of investigation

An enforcement investigation may have several possible outcomes which may be summarised as follows:

- No breach identified
- Breach rectified
- Retrospective application
- Breach identified but not expedient to take action
- Development immune from enforcement action
- Breach identified and expedient to take enforcement action

A range of powers are available when a negotiated resolution cannot be achieved.

- Enforcement Notice
- Breach of Condition Notice
- Planning Contravention Notice
- Stop Notice
- Untidy Site Notice (S215)
- Advertisement Proceedings
- Prosecution
- Works in default
- Injunction

The majority of decisions on enforcement matters are made under powers delegated to the Chief Planner by the Development Control Committee. Members are entitled to call in any case for more detailed consideration by the Plans Sub Committee, for example more contentious cases which may be of wider public interest.

Contacts and Further Information

There is a range of supplementary information on planning enforcement, including Central Government advice, supplementary planning guidance, design guidelines, etc. These can be obtained by contacting:

- Telephone Enquiry Team **020 8313 4956**
- Planning Enforcement team 020 84617730
- Emailing planningappeals@bromley.gov.uk
- Looking at our website www.bromley.gov.uk
- Or by writing to us at: **Planning Enforcement, Bromley Civic Centre, Stockwell Close, Bromley, BR1 3UH**