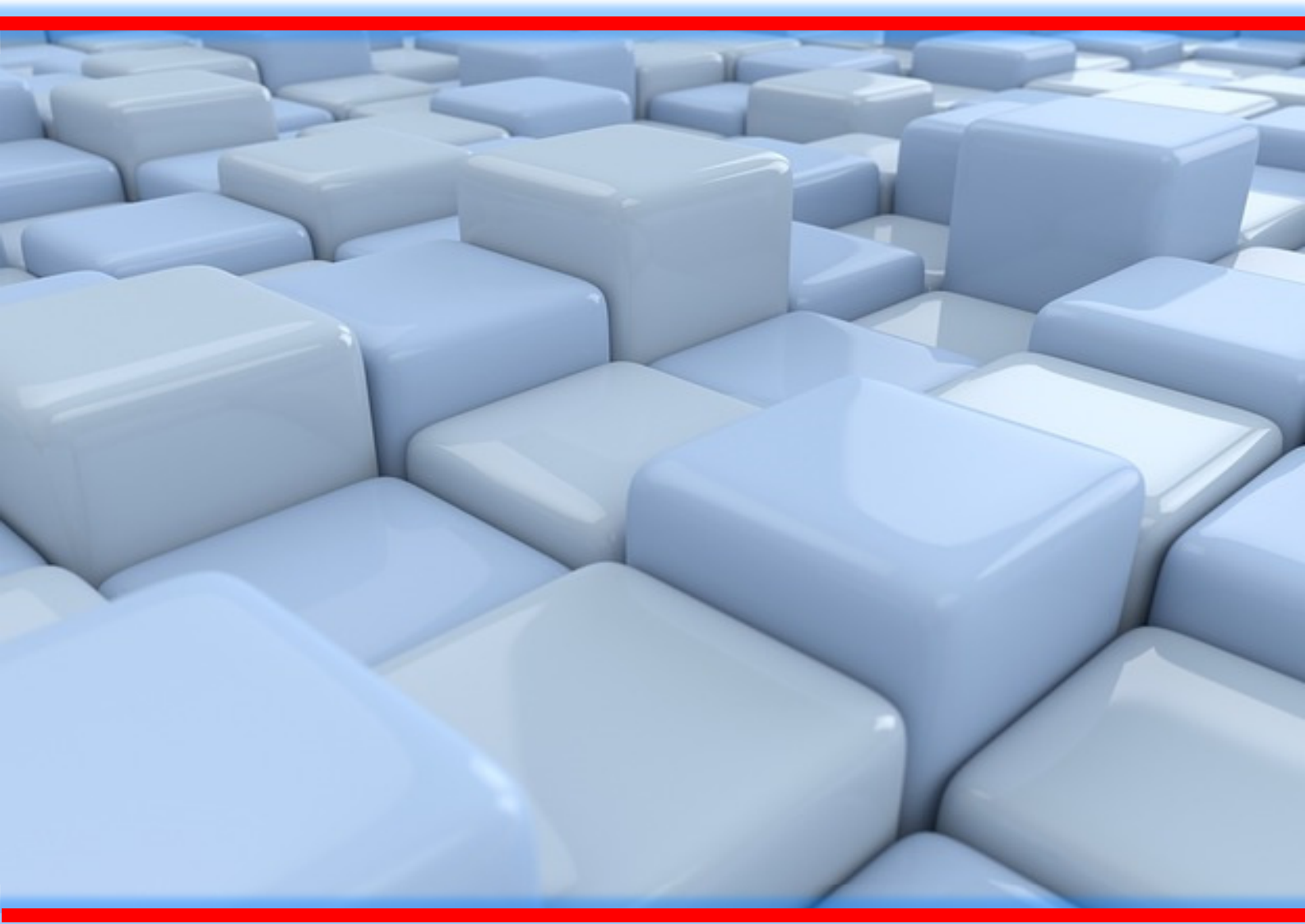




**LOCAL PLANNING ENFORCEMENT
PLAN
October 2018**



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1. WHAT IS PLANNING ENFORCEMENT?

- 1.1 Planning legislation empowers the council to control and manage development and use of land and buildings in the public interest. These powers are set out, principally, in the Town and Country Planning Act 1990 (as amended) (“the Act”), which defines what can be considered as ‘development’ and sets out the processes for enforcing against unauthorised development. The Act defines a breach of planning control as:

“the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted.”

- 1.2 The Act is supported by the National Planning Policy Framework (“Framework”), adopted by Government in 2018, which provides guidance to Local Authorities in terms of how they should manage breaches of planning control and when enforcement action should be taken. Paragraph 58 of the Framework states the following:

“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 appropriate.”

- 1.3 The Council has the responsibility for taking whatever enforcement action is necessary within its area as the Local Planning Authority. The Council has powers to investigate and take action to remedy breaches under the Act the Planning (Listed Building and Conservation Areas) Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the Localism Act 2011 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

2. WHAT IS, OR IS NOT A BREACH OF PLANNING CONTROL?

2.1 A breach of planning control could involve such matters as the unauthorised erection of a building or extension to a building, a 'material' change of use of land, or the display of unauthorised advertisements and works to listed buildings. Residents often report issues to the Council which, although they relate to buildings or land, are not always covered under planning enforcement powers. Below is a guide to the complaints which can, and cannot, be investigated by planning enforcement. For the purposes of this Plan, a breach of planning control is used in the general sense, and may include other matters which fall outside the Act.

Planning enforcement issues

- Works to listed buildings;
- Demolition of buildings in a conservation area;
- Works to trees subject of a Tree Preservation Order ("TPO") or in a conservation area;
- Building without consent (i.e. extensions, outbuildings, fences, walls);
- Change of use of buildings and/or land (inc. sub-division of houses to flats / HMOs);
- Advertisements and signage;
- Non-compliance with conditions attached to planning permissions;
- Not building in accordance with the approved plans of planning permissions;
- Untidy land where it affects the amenity of the area;
- Engineering operations, such as raising of ground levels or earth bunds;
- Deliberate concealment of unauthorised building works or changes of use

Potential planning enforcement issues

- Clarifying whether works that are deemed to be 'permitted development' under the relevant Government regulations (for example, extensions within specified size limits);
- Running a business from home, where the residential use remains the primary use;
- Parking caravans on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property;
- Clarifying whether advertisements do require advertising consent under the Town and Country Planning (Control of Advertisements, England) Regulations 2007;
- Unsociable working hours or practices on building sites (e.g. noise or dust from building work);

Non-planning enforcement issues

- Internal works to a non-listed building;
- Parking of commercial vehicles on the highway or on grass verges;
- Land ownership disputes or trespass issues;
- Infringements of covenants in property deeds;
- Temporary structures/fencing associated with building works;
- Dangerous structures or other health and safety issues;
- Devaluing of property;
- Issues relating to party walls
- Issues relating to damage of property or (potential) injury to persons

3. THE COUNCIL'S APPROACH TO PLANNING ENFORCEMENT

- 3.1 The Council's planning enforcement function is a vital part of the development management process and ensures that where development is undertaken without planning permission, action is taken to minimise or remove any harm which is being caused.
- 3.2 The Council is committed to ensuring that all valid and registered enquiries relating to an alleged breach of planning control are duly investigated and the appropriate action taken. These actions range from taking no action if there is no breach which can be dealt with under planning powers, through to formal enforcement action and prosecution proceedings if necessary.
- 3.3 Every year the Council receives a large number of enquiries relating to alleged breaches of planning control. The Council appreciates that local people play a vital role in reporting suspected planning breaches which require further investigation, in order to help protect residents and businesses within the community from the sometimes harmful effects of unauthorised development.
- 3.4 Haringey is a diverse and vibrant London Borough and we will not seek to apply a 'one size fits all' approach to planning enforcement. However, the benefits of a clear and well understood policy framework are important. Haringey's planning department can play its role in helping to achieve a healthy and balanced community, supported by an effective planning enforcement service. Therefore as part of its commitment to the delivery of an efficient and effective planning enforcement service, the Council has prepared this enforcement policy.

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- 3.5 This Enforcement Plan sets out how the Council can and will respond to any breaches of planning control. We will follow Government advice which encourages councils to try to resolve issues by negotiation as this is very often the quickest and most effective way to resolve problems. It is also the best way to use resources - taking formal action, assuming it succeeds, can be a lengthy process and consumes a lot of staff time. However, where negotiation fails, or individuals deliberately or persistently ignore the rules and carry out development that seriously impacts on the wider community, then there should be no doubt that the Council will take formal action. In some instances, the Council will take enforcement action without any negotiation depending on the nature of the breach and or parties involved.
- 3.6 The policy sets out how the service will prioritise and respond to planning breaches, and contains information for all those involved in, or affected by the enforcement process. The policy will be referred to by officers and members involved in the decision-making process, and will allow resources to be more clearly focused on the vision, objectives and policies of the development plan. The development plan consists of the London Plan, the Local Plan, the DMDP, Area Action Plans and Site Allocation Plans (and any successor documents).

4. How can an enforcement issue be reported?

- 4.1 If you believe there to be a planning breach, in order for the planning enforcement team to investigate your complaint you must formally submit a complaint. This is necessary in order for us to obtain a full picture of the situation and avoid allocating resources to enquiries which cannot be taken further. You may make a complaint:
- Verbally by calling the Council's Customer Services Team
 - Online via the Planning Enforcement online complaints submission page
 - Or in writing
 - Through your local ward councillor
- 4.2 All complainants are required to provide their full name and either a phone number, postal address or email address (or preferably a combination of more than one contact detail). Anonymous complaints will not be investigated. This is to ensure that public resources are not spent unnecessarily investigating hoax or malicious complaints. It is also important that, should legal action become necessary in relation to a complaint, the Council can state in court that the matter was reported by a local resident. All details provided by a complainant will always remain totally confidential, unless the information is required for use as evidence in court. If this does happen, the Council will make

all reasonable efforts to inform you before disclosing any information. We may also need to contact you prior to any site inspection being carried out to look into your complaint, for the team to seek further information or clarification from you regarding the details of the alleged breach. It may be the case that the development in question does not require planning permission and therefore cannot be enforced against. You are strongly advised, prior to submitting any enquiry, to check whether the particular development or activity which is causing you concern already benefits from planning permission. This information can be found on our website.

4.3 To help us deal with your case as soon as possible it is important to provide as much information as you can. Below is a list of the type of information that would assist us in dealing with your complaint:

- An accurate description of the location or address for the particular site;
- A detailed description of the activities taking place and why they are cause for concern;
- Names, addresses and phone numbers of those persons responsible for the alleged breach or the land owners;
- The date and times of when the alleged breach took place;
- Any other information or evidence (including photos) that may be able to assist;
- Your name and contact details as set out above.

5. How will the Council deal with your complaint?

5.1 The Council understands that all issues raised with the planning enforcement team are very important to the person who has reported them, and that planning matters can cause major concern and often distress. As the Council receives a large number of planning enforcement enquiries every year and has limited resources for investigating them the planning enforcement team has a system of prioritising complaints to make sure that the most serious or potentially dangerous issues are investigated most urgently.

5.2 Upon receiving a valid complaint, the planning enforcement team will log the details and begin investigating as quickly as possible. Once the complaint has been confirmed as valid and has been logged, an acknowledgment letter will be sent out immediately. All registered complainants' details are kept confidential. The Council will not disclose complainants' personal or contact details or any other information that could help identify the person who registered the enquiry, and will do everything possible to protect the anonymity of anyone who submits an enquiry. This information will be held in full accordance with the provisions of the Data Protection Act 2018.

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- 5.3 Once a case has been assigned to a planning enforcement officer they will carry out an initial desk top assessment in order to establish the facts of the enquiry and to determine whether or not a site inspection will be necessary.
- 5.4 Please note that the council does not automatically visit every site which is the subject of an enforcement enquiry. A visit will be made only if it is necessary to further investigate the matter and establish the facts. Officers need to provide at least 24 hour notice to enter premises used for residential purposes. If no such notice has been given, it is up to the owner / occupier to permit entry voluntarily. No such requirement exists in other instances.

The Council's commitment to you

- 5.5 If you have made a complaint or reported something to us we will:
- **INVESTIGATE ALL ALLEGED BREACHES OF PLANNING CONTROL** by looking at the site and planning history, and carrying out a site inspection if necessary. If there are planning enforcement issues, we will try to settle any disputes by coming to an agreement and without taking formal action, unless the matter is causing significant harm, or the parties involved (agents/owners/tenants etc.) have had previous involvement with the Council on other breaches of planning control. If we need to take formal enforcement action, this may eventually result in the person concerned being prosecuted;
 - **KEEP YOUR PERSONAL DETAILS CONFIDENTIAL** at all times, unless required to disclose as part of court proceedings;
 - **QUICKLY REGISTER AND ACKNOWLEDGE YOUR CASE**, usually within three days of receipt, but according to its priority level, and provide you with a reference number with a named officer as the point of contact;
 - **GIVE EACH CASE A 'PRIORITY RATING'** (see approach set out below) and visit the site, where necessary, within the timescales set;
 - **ACTIVELY PURSUE YOUR CASE AND KEEP YOU INFORMED** of progress until the case is closed when we will let you know the outcome;
 - **SEEK TO MAKE TIMELY DECISIONS** - 100% of all cases within 8 weeks;
 - **PROVIDE AN OUTSIDE OF OFFICE HOURS SERVICE** in some circumstances
- 5.6 Investigations into alleged breaches of planning control can be complex and may take some time but we will aim to achieve the targets set out above. On receipt we will categorise breaches by priority – the priority may change once we have been able to visit the site and fully assess the situation. The categories are as follows:

Priority system for planning enforcement investigations

Cases are dealt with according to the following timescales.

- **Priority 1:** Other serious complaints, including demolition in conservation areas, works to TPO trees, works to listed buildings. We will visit within three working days.
- **Priority 2:** All other complaints, such as extensions to buildings and unauthorised changes in the use of a building. We will visit within 10 working days.
- **Priority 3:** Minor complaints where planning rules may not have been kept to, such as minor alterations to the outside of a building, or other minor developments such as satellite dishes, advertisements, walls, gates and fences. We will visit within 15 working days.

5.7 The Council is not obliged by law to take enforcement action in respect of any breach of planning control. The Act requires that enforcement action is taken only when it is expedient to do so. This has regard to the provisions of the development plan and any other material considerations. The decision on how to proceed on each case is within the Council's sole discretion. Account will be taken of other material considerations such as planning appeal decisions, ministerial statements and legal precedents.

5.8 Our planning enforcement priorities, so far as possible, reflect the diversity of the area and enable us to focus on specific planning issues effecting local communities. In developing and improving the service we will continue to consult with stakeholders, our partners and with the users of the service.

6. What are the possible outcomes of an investigation?

6.1 There are various possible outcomes of an investigation:

- **NO BREACH EXISTS** – Following a site inspection or desktop study it may be found that there is no breach of planning control because, for example, the unauthorised use has ceased, or the development is permitted or lawful development.
- **THERE IS A BREACH OF PLANNING CONTROL BUT NOT 'EXPEDIENT' TO PURSUE** – Just because a breach may exist does not

automatically mean that formal action will be taken. Central Government Guidance in the Framework clearly sets out that enforcement powers are discretionary. In turn, minor technical breaches that have only a small impact may not warrant the time and expense in taking action.

- **NEGOTIATIONS TAKE PLACE TO FIND A SOLUTION** – Planning legislation requires the council, where possible, to negotiate resolutions to planning breaches, thus avoiding formal action. If the investigation does reveal a planning breach, the council will seek, where possible, to negotiate with the responsible parties and agree an informal solution. The Council will not allow negotiations to become protracted. The Council will ordinarily not engage in negotiations with parties who have previous form when it comes to breaches of planning control.
- **BREACH ESTABLISHED BUT NOW IMMUNE FROM ENFORCEMENT ACTION** - The investigation reveals that a planning breach has occurred, but that it has been occurring continuously for so long that it has now become immune from enforcement action. In cases relating to residential development or structures this period is four years, anything else being ten years.
- **A RETROSPECTIVE APPLICATION IS APPROVED** - A retrospective planning application will be invited where there is a reasonable likelihood that planning permission may be granted or where a development may be made acceptable by way of imposing suitable conditions to control how it takes place. The development will be subject to the planning application process and assessed against planning policies, taking into consideration the views of local residents (the contents of the enforcement investigation file will not be carried over to that of the planning application).
- **‘UNDER-ENFORCEMENT’ UNDERTAKEN** - In instances where the unauthorised development has occurred is unacceptable, but could be made acceptable by an alteration or a change in operation, the Council may seek to ‘under-enforce’. This means that the Council may not require an unauthorised development to be reversed entirely, but may require it to be altered in a way which makes it acceptable.
- **FORMAL ACTION IS TAKEN** - On average around 10% of cases we receive result in formal action being taken. There are a range of formal powers the council can use to remedy breaches of planning control. The more common forms of enforcement action are listed in section 7.

7. What are the common forms of enforcement action?

- 7.1 The decisive issue when considering taking enforcement action further is based on amenity and the public interest. Planning enforcement action should be sensitive to the intent and context of the owner and the development. A

householder making a genuine mistake out of ignorance, and cooperating to remedy the mistake, will be treated proportionately, compared to a clear and flagrant breach of a planning decision or a serious case of harm. Where serious harm is being caused, enforcement action will be swift and proportionate to remedy the effects of the breach of planning control.

7.2 Prosecution for not complying with the notice does not, paradoxically, compel compliance, but rather punishes non-compliance. Where there has been financial gain as a result of a criminal act of not complying with an extant notice, the Council will consider taking further action under the terms of the Proceeds of Crime Act 2002 (“POCA”). It is usually the case that where there is a financial benefit from not complying with the notice, there is incentive to do so. Additionally, this results in several instances of the breaches resuming after the initial compliance. To this end the Council will aggressively pursue POCA proceedings to achieve several but connected aims, being: to deter the breaches occurring in the first instance, to encourage compliance and to deter re-offending.

Enforcement action	Purpose
Planning Contravention Notice	Requires persons to divulge information in respect of land and activities. Often undertaken to determine if there is a breach of control and to help decide the appropriate course of action.
Breach of Condition Notice	Secures compliance with conditions specified within a planning permission.
Tree Replacement Notice	Requires the replacement of trees removed without consent
Enforcement Notice	Requires particular steps to be taken to remedy the situation
Listed Building Enforcement Notice	Requires works to be done to prevent or reverse unlawful works to a listed building
S225A Notice	Requires the removal of advertisements displayed without consent
S330 Notice	Requires information about interests in the land
Stop Notice / Temporary Stop Notice	Requires the unauthorised activities to cease immediately, a stop notice is linked with an enforcement notice and a temporary stop notice lasts for a period of up to 28 days.
POCA Confiscation	To confiscate any monetary benefits derived from not complying with an enforcement notice.
Section 215 Notice	To secure the proper maintenance of land and buildings and protect public amenity.

Direct Action	The council may enter land to take the necessary steps to secure compliance with an enforcement notice. This is initially at the Council's cost although these are recoverable from the landowner
Injunction	To prevent unauthorised development or can be used to prevent anticipated unauthorised development
Prosecution	Applies to a failure to comply with all the above notices. In addition, displaying advertisements without consent, not responding to or providing misleading information to a PCN, works to TPO trees, and works to a listed building and demolition of a building in a conservation area is an offence. Prosecution is used to bring the offence before the court to punish non-compliance. Displaying unauthorised advertisements, demolition of a listed building or a building within a conservation area are also criminal offences which can be prosecuted without the need of first serving a notice.

8. What if a complaint is made against me?

- 8.1 The Council recognises the anxiety that is caused by finding out that someone has complained about alleged development or activity on your property. It is therefore important to us to make sure that people or companies who are the subject of the planning enforcement complaints are treated fairly and given the opportunity as part of the investigation to explain the situation from their perspective. If you have received a visit or a letter from an enforcement officer explaining that a complaint has been made against you:
- 8.2 **DO** make contact with the Council at the earliest opportunity to discuss the complaint, whether this is by responding to a letter or holding a meeting with the enforcement officer at the site. In many cases a short meeting with the enforcement officer, or even a telephone conversation, can be sufficient to clear up whether or not a planning breach has occurred and whether or not enforcement action will be required. If you make contact with the planning enforcement team early on, they will be able to:

- Confirm whether or not a planning breach has occurred and whether or not further action will be necessary on your part in order to resolve the matter;
- Advise you on the next steps in the investigation, whether that be:
- Inviting you to submit a retrospective planning application seeking permission for the development/activity which has taken place;
- Negotiating a solution with you to address the problem in a way that is fair both to you and to the complainant. This could mean reducing the scale of development or activity, altering or reconfiguring it, or relocating it;
- Requesting that you reverse the unauthorised development or cease the unauthorised activity within a reasonable timeframe. Planning enforcement officers will always seek, where possible, to agree a negotiated solution to an issue rather than pursue formal action. It is therefore in your interests, should a complaint be made against you, to co-operate with the enforcement team and to make sure that the investigating officer is aware of your perspective and has the fullest possible information available to them.

8.3 **DON'T** ignore the issue. When the Council receives a complaint from a member of the public it is obliged to carry out all necessary investigations in order to fully understand if a breach has occurred. The law provides the Council with a series of tools in order to make sure this happens. This means that the matter will not 'go away' if you ignore the correspondence you have received regarding the complaint which has been made against you. If you do not engage with the Council from the outset to address the matter, one of the following will be likely to happen:

- A Planning Contravention Notice will be issued requiring you to answer a series of questions regarding the complaint. Failure to respond to such a notice and provide the requested information is an offence which you will be prosecuted for if necessary;
- The Council will use its powers of entry to access the site of the alleged planning issue and investigate further. Obstructing an officer who needs to gain access to investigate a complaint is also an offence;
- You will be called to an interview under conditions set out in the Police and Criminal Evidence Act. The interview will be carried out under caution, meaning that your responses will be recorded and potentially used against you as evidence in court if prosecution proceedings are necessary;
- If the Council has reason to believe that development or activity is taking place which requires planning permission, it has the right to serve various types of notices upon you without further notice. Again, failure to comply with a notice is an offence. Any person prosecuted for failing to comply with an Enforcement Notice may face an unlimited fine upon conviction, and is also liable for the full costs incurred by the Council in bringing the matter to court. It is therefore in

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your interests, should a complaint be made about you, to engage with the Council early on in order to avoid this.

- 8.4 At each stage, we will make every effort to keep you informed, either by phone or in writing.
- 8.5 Please note that the information submitted to the Council forming part of a complaint is considered to be personal information, which is therefore exempt from the provisions of the Freedom of Information Act 2000 (as amended) and will not be disclosed by the Council. The only details which will be revealed are the nature of the complaint made, e.g. wall built without planning permission.

9. What if I am dissatisfied with the way the case was managed

- 9.1 If, having received the Council's final response to your enforcement enquiry, you are dissatisfied with the way the investigation has been managed (rather than being unhappy with the outcome if it has been decided that no action can be taken), you should, in the first instance, raise these concerns with the relevant manager within the planning service. If, having done that, you are still dissatisfied with the team's handling of your enquiry; you may submit a complaint using the Council's corporate procedure which is set out in two stages. The first stage comprises a service area investigation and the second an independent investigation by the Feedback and Information Governance (FIG) Team. More information on the corporate complaints procedure can be found via the following link:

<http://www.haringey.gov.uk/complaints-about-council>

- 9.2 If, having received the Council's final response to your complaint, you are still not satisfied with the outcome; you can refer the matter to the Local Government Ombudsman via www.lgo.org.uk/make-a-complaint. Please note The Ombudsman will not investigate any complaint until the complainant has first followed the Council's own corporate complaints procedure and sought resolution directly with the council in the first instance.

10. Publicity of this plan and planning enforcement documents

- 10.1 This plan will be available on the Council's website. Hard copies and other formats and languages can be requested in writing.
- 10.2 The Council is required by law to keep an enforcement register. This is public register of all notices including any appeal documentation and decisions. Hard

copies of these documents are available to view by appointment at the Council offices. In addition, the Council's website has all enforcement notices issued after 1 January 2009.

11. Review and monitoring of this plan

- 11.1 In formulating this plan the Council recognises the need to make sure that it is reviewed periodically and updated as necessary to ensure that it remains fit for purpose in the future. The planning department will therefore undertake a review of the plan every time there is a significant change in the legislation (including caselaw) or the development plan policies.
- 11.2 The Council will monitor the length of time taken from the receipt of information regarding a suspected breach of planning control to the conclusion of the case. This monitoring is carried out in order to ensure the timely progression of all complaints received and any possible changes to the prioritisation of cases allocation of officers to specific areas.

Planning Enforcement contact details

Phone: 020 8489 1000

Link: haringey.gov.uk/planning-and-building-control/planning/planning-enforcement

By post: Development Management and Planning
Enforcement Planning Services, 6th Floor
River Park House
225 High Road
Wood Green
N22 8HQ

In person: Wood Green Customer Service Centre
Ground Floor
48 Station Road
Wood Green
N22 7TY
(opening hours - 08:45 – 17:00 Mon-Fri)

Useful websites

Local Policy

<http://www.haringey.gov.uk/planning-and-building-control>

National Policy

www.legislation.gov.uk

www.gov.uk/government/publications/permitted-development-rights-for-householders-technical-guidance

Royal Town Planning Institute

[www.rtpi.org.uk/knowledge/networks/planning-enforcement-\(nape\)/](http://www.rtpi.org.uk/knowledge/networks/planning-enforcement-(nape)/)

Other useful documents

These can all be found online

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Town and Country Planning Act 1990 Section 215: Best Practice Guidance
- Planning Inspectorate – Enforcement Appeals Guidance