

PLANNING ENFORCEMENT IN EPPING FOREST DISTRICT: A guide for complainants and landowners/occupiers

Set out below is a guide to planning enforcement at Epping Forest District Council. It briefly explains the purpose of planning enforcement and what matters it deals with. It also gives more specific guidance to those who would like to report a suspected breach of planning control and to those whose property or activity might become the subject of a planning enforcement investigation.

- **Contact details for reporting a breach of planning control and a list of information you should provide can be found at pages 4-5 of this guide.**
- **Guidance for persons whose property or activities are being investigated by Planning Enforcement Officers can be found at page 8 of this guide.**
- **General guidance on the need for planning permission for works to houses can be found on the Planning Portal, which can be accessed using the following link:**

<http://www.planningportal.gov.uk/england/public/tools/house/>

Similar guidance can be found in the planning section of the Councils' website, www.eppingforestdc.gov.uk,

- **Information on planning applications previously considered or currently being considered by the District Council can be found on the Councils' website, and can be accessed using the following link:**

http://www.eppingforestdc.gov.uk/Council_Services/planning/iPlan.asp

The Council has a small team of officers within the Directorate of Planning and Economic Development who are responsible for dealing with planning enforcement matters across the District. Planning enforcement is a discretionary service that is part of the Councils' wider development control function. Even though the Council is not obliged by statute to provide a planning enforcement service, it recognises the importance of doing so in order to underpin the planning process. Furthermore, the Council recognises the benefits to residents and businesses in the District of taking prompt and appropriate action to deal with the harm that can sometimes be caused by breaches of planning control. At the same time, the Council acknowledges some breaches of planning control may not cause harm and/or have been carried out by a person who did not know the permission of the Council is required for the development concerned.

What does the Planning Enforcement Team do?

The Planning Enforcement Team is primarily concerned to deal with harm caused by breaches of planning control. To do so it follows a process that starts with opening an investigation into alleged breaches of planning control and normally concludes when either:

- it is found there has in fact been no breach, or
- planning permission is subsequently granted, or

- the harm caused by the breach has been dealt with to the extent it can using planning legislation.

The investigation process is explained in more detail below starting at page 6 of this guide.

The Planning Enforcement Team can only investigate those matters that planning legislation places under the control of the District Council. They are limited to the matters set out at pages 2-4 of this guide under the heading “*Types of alleged breach the Planning Enforcement Team can investigate*”.

Where an allegation is about a matter controlled under other legislation, then the Team will ask the responsible organisation to investigate the matter. Sometimes investigations will find a breach of planning control has taken place and the breach might also be a breach of other legislation. In those cases the Team will work with the other responsible organisations to deal with any harm caused.

Types of alleged breach the Planning Enforcement Team can Investigate

1. Development without planning permission. This includes:
 - Works – either building or engineering operations.
For example, construction of a new building or making significant changes to the levels of land.
 - Changes of use of land.
For example, changing the use of a house to flats or a shop to an office.
 - Breaches of conditions on a planning permission.
Most planning permissions are given subject to conditions requiring that something be done before the development starts (e.g. the provision of extract ducting before starting a new use as a restaurant) or that something is not done once the development has started (e.g. no material is stored in the open above a specific height at a depot or warehouse). In some cases, starting a development without complying with conditions can result in the development not benefiting from the original permission and therefore being unlawful.
2. Works affecting the special architectural or historic character of a listed building without Listed Building Consent. This includes:
 - Works to a listed building
Note: works requiring listed building consent often include internal works and or relatively minor works such as painting a building or fitting a ventilation flu.
 - Breaches of conditions on a Listed Building Consent
As with planning permissions, most listed building consents are granted subject to conditions.
 - Causing intentional damage to a listed building
3. Demolition of a building in a conservation area without Conservation Area Consent.

4. Removal of a tree in a conservation area without consent.
5. Causing damage to or removal of a preserved tree without consent.
6. The removal of more than 20 metres of continuous hedgerow without consent, where the length of hedgerow removed does not form a boundary with a residential property.
7. Display of an advertisement without consent.

In addition to investigating the above types of breach where permission from the Council may be required, the Planning Enforcement Team also investigates the following allegations:

1. Display of an advertisement that causes serious harm to amenity or safety *even though it did not need any prior permission from the Council.*
2. Condition of land causing harm to amenity.

PLEASE NOTE:

1. **Development on Highway land** including stationing skips on it or safety concerns such as mud on the road should be reported to the Highway Authority. In Epping Forest District that is Essex County Council. Tel: 01279 642500. Email: highways.westarea@essexcc.gov.uk. Further information is available at www.essex.gov.uk
2. **The use of land for storing or disposal of waste or the winning and working of minerals** is a matter for the Waste and Minerals Planning Authority. In Epping Forest District that is Essex County Council. Tel: 01245 437245. You can also report such matters through the Planning section of www.essex.gov.uk using the following link:

<http://www.essexcc.gov.uk/vip8/ecc/ECCWebsite/dis/guc.jsp?channelOid=27961&guideOid=115122&guideContentOid=15970>

or write to:

Enforcement Officer
Minerals and Waste Planning
E2
County Hall
CHELMSFORD
CM1 1QH

3. **Most breaches of planning control are not a criminal offence.** Breaches that are in themselves criminal offences are limited to:
 1. Works affecting the special architectural or historic character of a listed building without Listed Building Consent.
 2. Demolition of a building in a conservation area without Conservation Area Consent.
 3. Removal of a tree in a conservation area without consent.
 4. Display of an advertisement without express consent.
 5. Causing damage to or removal of a preserved tree without consent.

6. The removal of more than 20 metres of continuous hedgerow without consent, where the length of hedgerow removed does not form a boundary with a residential property.
4. Before asking the Planning Enforcement Team to investigate a possible breach please bear in mind the Planning Enforcement Team is primarily concerned with remedying any harm caused by breaches of planning control. Therefore, you are requested to only draw attention to suspected breaches where, *in your opinion*, harm is caused and to which you have an objection. This would assist the Team in making best use of limited resources.

How do I ask the Planning Enforcement Team to investigate a possible breach?

You can report suspected breaches of planning control through:

1. The Councils website, www.eppingforestdc.gov.uk
2. By email at ContactDCENF@eppingforestdc.gov.uk
3. By telephone between 9.00am to 5.00pm Monday to Friday (except Bank and Public Holidays) on the following numbers:
 - 01992 564000 Ask to be put through to either the Planning Enforcement Team or to the Planning Customer Contact Team.
 - 01992 564527 Direct line to the Planning Enforcement Team. You may need to leave a message on an answer phone since Officers are frequently out of the office.
4. In writing to the following address:

Planning Enforcement Team
Directorate of Planning and Economic Development
Epping Forest District Council
Civic Offices
High Street
Epping
Essex
CM16 4BZ
5. In person between 9.00am to 5.00pm Monday to Friday (Except Bank and Public Holidays) at the Planning Reception situated on the second floor of the above address. Planning Reception is accessible to wheelchair users.

Please note, Planning Enforcement Officers are not normally available but a Duty Planning Officer is available between 9.00am and 12.00pm.

What information should I provide when reporting a suspected breach?

When reporting a suspected breach you should:

- 1. Be very clear about where the breach is.**
Please be aware, we have to identify the land on a map.
- 2. Be clear and concise about what you think the breach is.**
Make sure the Enforcement Officer knows what to look for when they inspect the land.
- 3. Say when the breach started.**
- 4. Say what harm, in your opinion, is caused by the suspected breach.**
- 5. Give details of the owner or occupier of the land, if known.**
- 6. Advise on potential danger,**
For example, violent behaviour by owners/occupiers of the land, the presence of dogs or dangerous condition of the land.
- 7. Give your daytime contact details and a postal contact address, if you want to be notified in writing of the outcome of the investigation or be contacted by the enforcement officer for further information. Your details will remain confidential and will be kept separately from the investigation file.**

PLEASE NOTE:

The Council recognises some suspected breaches of planning control can cause distress and you might be feeling very emotional when you are reporting the suspected breach. Nevertheless, in order to be sure an investigation can start without delay, please take the time to clearly give the information requested, especially when reporting a breach by telephone. In the case of reporting a breach by telephone, please be aware the person you are speaking to will have to fill out a form and they might be an administrative officer rather than a planning officer or a planning enforcement officer.

Complaints that are racist or otherwise malicious in nature will not be investigated.

Complaints relating to an alleged breach which has recently been investigated will not be investigated unless new information is provided which is of sufficient significance that could result in a different assessment being made of the need for permission and/or the degree of harm caused by the breach.

In cases where a complainant is rude to the Council officer receiving the complaint the officer will end the conversation.

How will the Planning Enforcement Team communicate with me and what might I be asked to do?

When drawing matters to the Teams' attention you will be questioned to ensure the Team has sufficient information to start an investigation. The investigation will be registered and, if you provide a postal contact address, a written acknowledgement will be sent to you within one week. The acknowledgement letter will explain the investigation process the Team follows, advise you who is carrying out the investigation and advise you of the investigation reference.

You do not have to give contact details but it is helpful if you at least provide a contact name and daytime telephone number so case officers can ask you for further information and inform you of their findings. PLEASE NOTE: All contact details are confidential and are not kept with the investigation file.

You might be asked to assist an investigation, such as by keeping a written log of activity. You might also be asked to give evidence in court or at a planning appeal to support action to remedy the harm caused by a breach of planning control. It is up to you whether you give any assistance but if you do not it will be harder to progress the investigation.

When an investigation is closed you will be notified and a summary of the reason for closing the investigation will be given. If you have given a postal address you will normally be notified in writing, unless otherwise agreed by you with the enforcement officer investigating the matter you raised.

In all cases the Planning Enforcement Team will be professional in its dealings with you. You are expected to act in a similar manner.

First steps in a Planning Enforcement Investigation

The formal investigation starts when it is registered and allocated to an enforcement officer. In each case an initial investigation is carried out to find out whether what you have alleged has actually happened and, if it has, to find out whether it requires permission from the Council. Where a breach of planning control is found to have actually taken place, *and* it is found to cause harm, the Planning Enforcement Team will take steps to resolve the matter and deal with any harm caused.

What happens after the initial investigation is complete?

In cases where no permission is required the investigation is closed. Just over half of all cases investigated by the Planning Enforcement Team are closed for this reason.

In cases where it is concluded a breach of planning control has taken place and permission from the District Council is required, the planning merits of the breach are assessed and a decision made on whether there is a reasonable possibility permission could be given. This is done in the light of relevant planning policy and the circumstances of the site. Particular weight is given to the degree of harm actually caused by the breach.

Where an assessment concludes there is a reasonable possibility that permission could be granted the owner and/or occupier of the land will be asked to apply for permission. Complainants are consulted on planning applications if they have given a postal contact address. If a subsequent application is approved the investigation will be closed. If

permission is refused or no application is submitted a decision on whether enforcement action should be taken will be made. In cases where planning permission has been refused it is normally expedient to take enforcement action.

In cases where an assessment concludes it is unlikely permission could be granted the Planning Enforcement Team will take steps to deal with the harm caused by the breach. The normal course of events will involve the owner and/or occupier being requested to take steps to remedy the harm caused within a given timescale. If that request is not complied with a decision on whether it is expedient to take enforcement action will be made. In most such cases it is expedient to take enforcement action.

In cases relating to advertisements that do not need any prior permission from the Council before being displayed but are alleged to cause harm *and* in cases where the condition of land is alleged to cause harm, the impact of the relevant advertisement or state of land will be assessed. If the assessment concludes no serious harm is caused the investigation will be closed. If it is decided that harm is caused a decision on whether enforcement action should be taken will be made.

What is enforcement action?

Enforcement action is where the District Council takes formal action to remedy the harm caused by confirmed breaches of planning control. It does not include lesser informal types of action such as requesting steps be taken to remedy a breach. The Council has a range of formal enforcement powers that can be used to remedy the harm caused by a breach. It can serve legal notices on the owners and occupiers of land requiring specific steps to be taken within a specified timescale. There is normally a right of appeal within approximately one month against such notices but if no appeal is made or an appeal is dismissed the notice becomes effective and must be complied with. Failure to comply with the requirements of a notice is an offence for which an owner and/or occupier of the land concerned can be prosecuted.

The District Council can also, in appropriate cases, seek an injunction against people with an interest in the land in order to require them to take steps to remedy the harm caused. In certain cases where the breach is an offence in its own right, for example, the demolition of a building in a conservation area without permission, the Council can prosecute those responsible for carrying out the breach.

As for all public bodies, where the Council is considering prosecution, it must be satisfied prosecution of the person concerned is in the public interest.

Finally, the Council has the power to enter land and take steps to comply with the requirements of effective notices. Where it does so it will seek to recover its costs from the owner of the land.

What should I do if I disagree with the outcome of a planning enforcement investigation?

In some cases you might disagree with the Planning Enforcement Teams' assessment of whether there is a breach of planning control or its assessment of the degree of harm caused by a breach or the course of action taken to deal with the harm caused. In such cases, you should informally discuss this with the case officer

in the first instance. If you are not satisfied with the outcome of that discussion you should set out your concerns in writing to the case officer. You will receive a written response at the most appropriate level. That may be from the Teams' Principal Planning Officer rather than the case officer or, if that is not appropriate, from an Assistant Director or the Director of Planning and Economic Development.

If you want to complain about the service provided by the Planning Enforcement Team it is open to you to use the Councils' formal complaints procedure. Details of this can be found on the Councils' website: www.eppingforestdc.gov.uk. Please use the following link:

<http://www.eppingforestdc.gov.uk/compliments.asp>

What should I do if the investigation is about my property or something I am doing?

One of the first steps in an investigation is to inspect the land or building concerned. The enforcement officer will also, if necessary, question you about what is found at the inspection. You should:

- ***Allow enforcement officers onto the land or into the building the investigation relates to.***

Enforcement Officers have a legal right to go onto land and into buildings in connection with their investigation. They all carry appropriate identification and a copy of their authority to enter land which you may ask to see. Enforcement Officers are entitled to take photographs of the land and buildings, including the inside of a building. It is a criminal offence to obstruct an enforcement officer carrying out their duty. If necessary, an Enforcement Officer can obtain a warrant to secure entry.

- ***Tell the enforcement officer if it is not safe to go onto land or into a building and explain why it is not safe. If it is possible to make the land or building safe very quickly to allow an inspection to take place without delay, you should do so.***

Landowners and people controlling land have a responsibility for the safety of people who enter it.

- ***Provide any information relating to the matter being investigated when asked.***

Sometimes a lot of information is needed before a decision can be made on whether the matter being investigated is a breach of planning control. You will be notified in writing of the decision. If there is a breach of planning control, the impact of the breach will be assessed. This might need other officers, such as Environmental Health Officers, to inspect the land or building.

Following an assessment of the impact of the breach you will either be asked to make an application for the necessary permission, perhaps with some suggested modification to the works or use, or you will be asked to remove the works or stop the use. You will be given a period of time to comply with the request but if you do not do as you are asked within the timescale given the Council will consider taking enforcement action to deal with the harm caused by the breach. Please refer to the above section at page 7 of this guide for further information on what enforcement action includes.

Most breaches of planning control are not a criminal offence. However, please be aware, if the enforcement officer suspects you have committed a criminal offence the officer will formally caution you before asking you any further questions. Do not be alarmed but do listen carefully to the caution. It is given to ensure you are aware of your rights.

Members of the Planning Enforcement Team will act professionally in the way they deal with you but remain focused on the primary concern of the Team to deal with actual harm caused by the breaches of planning control. Nearly all investigations that reveal that a breach of planning control has taken place are closed for the reasons that either planning permission is subsequently granted or that the harm caused by breach has been remedied. Of those investigations closed because the harm caused has been remedied, nearly all are concluded without the need for enforcement action. However, you should also be aware the District Council does take enforcement action where it is expedient to do so. Therefore, in order to conclude any investigation of an alleged breach concerning your property or an activity you are carrying out in the fastest and most amicable way possible, you are requested to give your full cooperation to the Planning Enforcement Officer investigating the matter.