

Planning Enforcement Plan Appendix 2

Summary of consultation responses to from public consultation (10/06/2021 – 09/07/2021) to previous draft enforcement plan

No Issues Raised

- Waverley Borough Council
- Transport for London
- The Coal Authority
- Natural England
- Environment Agency
- Elmbridge Borough Council

Email Responses

Name	Issue	Impact on Enforcement Plan
Historic England	Strengthen Page 8 with recommended paragraph	Recommended paragraph added on page 9 under 'Listed Building' title.
Historic England	Add section re: Schedule Monuments	Section added on page 9 under 'Schedule Monuments' title.
SCC Historic Planning Team	In the section regarding issues that the Enforcement Service cannot investigate, it might be advantageous - for the benefit of providing clarity to the public - to include reference to damage to Scheduled Monuments. This would be investigated by Historic England so reference to the relevant Inspector of Ancient Monuments would need to be added to Appendix A also. Historic England should also be consulted on damage or unauthorised works to Grade I and II* Listed	Section added on page 9 under 'Schedule Monuments' title. Inspector of Ancient Monuments added to Appendix 1 Recommended addition of Historic England added on page 9 under 'Listed Building' title.

	Buildings which could usefully be added to the text of this document.	
SCC Historic Planning Team	In the section on “Priorities for Planning Enforcement Investigation” it is stated that “ongoing works to a Listed Building” will be assigned a “Level 1” category for investigation. I am satisfied that this is entirely appropriate. However, earlier in the document it is (correctly) stated that there is no time limit to taking enforcement action on unauthorised alterations. This means that previously completed but unauthorised works to a Listed Building could be reported for and be requiring of enforcement action, but there is as yet no priority category to which this matter could be assigned, as only “ongoing” works are covered in the wording. I would recommend therefore that either the word “ongoing” be replaced with “unauthorised” in this section, or that “notification of previously completed but unauthorised works to a Listed Building” be added as a separate item. This should perhaps be a Level 2 matter as there would likely be less immediacy required in dealing with these as stopping ongoing works would necessitate, although the matter would still be a potential criminal offence (so considerably more significant than a Level 3 breach).	‘Unauthorised’ added to ‘ongoing works to a Listed Building’ added to Level 1 category on page 11 ‘Completed but unauthorised works to a Listed Building’ added to Level 2 category on page 11
EBEC Enforcement Officer	I would name enforcement complaints as reports of breaches of planning and complainants as being reporters	Not implemented as ‘enforcement complaints’ and ‘complainants’ is terminology recognisable to members of the public.
EBEC Enforcement Officer	We have a statement that we will <u>only</u> take action when it is fair reasonable proportionate and expedient. My view is that fairness should not be given such a prominent emphasis as there will be times when the Council might take action when	Given that enforcement cases can be raised by members of the public, it is considered reasonable to replace fairness with ‘rational’ in the introduction on page 5

	fairness may point to another neighbour experiencing a notice for the same issue first but it was that for whatever reason we got to a case first. I can develop this further if required	
EBEC Enforcement Officer	Conflicting statements of when we will take action against tree breaches	Unauthorised works to trees subject to a tree preservation order has been added to the list of criminal offences on page 5 and page 9
EBEC Enforcement Officer	expediency definition/explanation needs reworking	The Epsom Civic Society recommended that this section is titled as just 'Expediency' on page 5, which has been implemented.
EBEC Enforcement Officer	Confidentiality is not up to date possibly	Confidentially is up to date on page 10.
EBEC Enforcement Officer	In the weighting categories I would have unauthorised change of use or development in the Green Belt in Cat 1 I would have shop signage in conservation areas as cat 1 I would suggest that unauthorised felling of a tree in a CA is Cat 2 but it may be difficult now to change	These have been implemented in the prioritisation categories on pages 11 - 12
EBEC Enforcement Officer	Under customer service standards I would state that reporters can expect responses by email.	Responses may not always be given by email. It is reasonable to continue the expectation on page 12 to be a 'written acknowledgment'
EBEC Enforcement Officer	Uniform is not set up to provide service standards demanded by the draft plan and there are no automated management tools in place	This is a process issue outside of the Enforcement Plan
EBEC Tree Officer	Under the heading 'The Council's Planning Enforcement Service cannot investigate the following' the sentence 'activities giving rise to direct or indirect damage to protected	This has been removed as it conflicted with a Level 1 priority case.

	trees or qualify trees in conservation Areas should be removed’.	
EBEC Environmental Health	There is a need to clarify one particular aspect within the policy. Although the environmental health service has powers to control noise, where by condition the application is constrained to particular site working hours, it would be expected the Local Planning Authority take primacy on dealing with the matter on account of the fact that it is a planning breach and not necessarily a noise nuisance. It would be useful to highlight this distinction in the policy	This has been clarified on page 8
Epsom and Ewell Tree Advisory Board	Nowhere in the draft enforcement plan wording is any reference made to enforcement action that may be required to ensure that Tree Replacement Notices (TRNs) issued by the Council (normally as a condition associated with planning approvals for the felling of TPOd trees) are adhered to.	This has been added as a Level 2 priority on page 11
Epsom and Ewell Tree Advisory Board	Increasing non-compliance by developers with regards to landscaping conditions applied by the Council is not recognised in any of the priority category levels for enforcement investigation	This would fall under ‘breaches of condition where no serious implication/harm is caused’ in Level 2 priority on page 11
Epsom and Ewell Tree Advisory Board	Concern about placing an absolute time limit of four years on any enforcement action against breaches that have occurred, except those involving listed buildings. TAB have been led to believe that Planning breaches involving the unauthorised felling of TPOd trees never run out.	As this is a criminal action, it is not subject to a time limit
Epsom Civic Society	See Letter	The impact of these comments on the Draft Enforcement Plan have been outlined in red.
Cllr Eber Kington	Concern in respect of the use of the word ‘expedient’ in introduction – could be open to interpretation	Expedient is recognised terminology in matters of enforcement.

<p>Cllr Eber Kington</p>	<p>The document provides a “Definition of Expediency”. Based on my first comment, my view is that this heading should be revised to how the Council will use its Discretionary Powers.</p> <p>The Council’s planning enforcement powers are discretionary, and we will not (rather than should not) take further action simply because there has been a breach in planning control.</p> <p>The council’s use of enforcement powers will be based on the provisions of the development plan and any other material planning considerations.</p> <p>In making this assessment the Council will gather evidence regarding the nature and scale of the breach, and whether it unacceptably affects public amenity and or the built or historic environment.</p> <p>.....all of the above then leading to the key points and definitions at the top of page 6.</p>	<p>It is considered that the use of the word expediency for this heading is appropriate.</p> <p>This paragraph on page 5 has been amended in accordance with this recommendation</p> <p>This is already captured by the relevant paragraph on page 5</p> <p>This is a repeat of the original paragraph</p>
<p>Cllr Eber Kington</p>	<p>Concerned about what the headings ‘Proportionality’ and ‘Targeting Enforcement Awareness’ means.</p> <p>We are a Residents’ Association led Council and if these words are used to avoid taking action because it only affects one resident or a group of residents, despite being a significant breach, I cannot support them. In the interests of openness and fairness therefore the document should</p>	<p>This is a process issue outside of the Enforcement Plan. Any decision not to take enforcement action will be recorded on the file, along with the reason for not doing so.</p>

	confirm that “decisions not to act will be recorded along with the reasons for that decision”.	
Cllr Eber Kington	<p>Under the heading Accountability it states:</p> <p>This local enforcement plan document, agreed by councillors sets our priorities for action. The success of the policy will be monitored and reviewed regularly.</p> <p>Is this an internal planning team monitoring role or a role for LPP or Audit Committee? The document should state by whom and how regularly, otherwise accountability is unlikely to happen, and the review may not be open.</p>	An annual performance report to the Council’s Planning Team is considered to be the appropriate form of monitoring and reviewing the Enforcement Plan document. It is inferred in the paragraph on page 7 that the Officers will internally carry out this review.
Cllr Eber Kington	Under Confidentiality should the document also reference the Council’s procedures for dealing with vexatious complainants?	There is unlikely to be a uniform procedure on this matter, as it will depend on a number of factors, such as level and frequency of vexatious complaints.
Cllr Eber Kington	<p>I note that within the Priorities for planning enforcement investigation level three lowest category for action are shop fronts. However:</p> <p>If our Build Back Better Plan includes under Rebuilding a strong local economy includes “Making sure our high streets and urban spaces are safe and attractive for people to come back to”.</p> <p>If our draft Local Plan is going to contain policies referencing beautiful buildings and reflecting the local character of....</p>	Shop fronts have been moved to Level 2 priority on page 11

	<p>If our Future 40 Vision references, smart, green, great place to live work and do business</p> <p>.....why does our draft Planning Enforcement Policy place what our shop fronts look like within the lowest category for action?</p>	
Cllr Nigel Collin	<p>My comment relates to the absence of sanctions to be applied. For instance a developer does not put in the planting as agreed and ignores a request to do so. Surely this is a matter where the fine needs to be outlined with that doubling if not enacted in the agreed time frame. A court order appears to be overkill in this situation given cost and time</p>	Sanctions have been set out on pages 14-15
Simon Alford	<p>Concerns that breaches in category three (advertisement hoardings, over height fence, unauthorised fence) should actually be in Category 1 as the actual damage to the local environment caused by these are actually quite major in their impact are never actually progressed simply because they happen to fall into a 'low level' categorisation that doesn't do them justice.</p>	Officers will consider the impact of the breaches or unauthorised works on the environment when considering the level of prioritisation
Simon Alford	<p>With regards to the draft 'Service standards and objectives' section of the draft enforcement plan, I strongly welcome the better communication that is being proposed with complainants with regards to what action is being taken by the Council, because in my experience such proactive communication is currently abjectly lacking. I particularly welcome the proposal that 'at least every three months' complainants will be proactively updated, because at the moment complainants can be left wondering whether their initial observations have entered a black hole....though, to</p>	Comment noted

	<p>be fair, I've always had extremely prompt replies from the enforcement officer when contacting him direct to ask for an update. This has not always been the case when reporting breaches prior to actual enforcement state to other officers – including senior ones – with the distinct impression being given that Epsom & Ewell BC is becoming far less likely to respond to resident's letters or emails than it has been in the past.</p>	
Alexander Duval	<p>With respect to the criteria of what the Council's Enforcement Service cannot investigate, is there an exception when a condition attached to a planning permission relates to one of these criteria?</p>	<p>Page 7 has been amended to identify the exception being non-compliance of a planning condition.</p>
Alexander Duval	<p>More detail should be provided to explain what circumstances the 'strictest confidence' may be breached legitimately</p>	<p>It is considered that the details set out on page 10 explain the relevant circumstances</p>
Alexander Duval	<p>It would be helpful to have a definition of serious, major proposals, minor and substantial works.</p>	<p>There is no set definition of this terminology in this context, as it will be dependent on the situation.</p>
Alexander Duval	<p>Could a breach of condition ever be significant enough to make it a Level 1 issue?</p>	<p>This is a process issue outside of the Enforcement Plan. However, where a breach of condition has serious implications felt over a wider area or has serious implications upon the continued health and wellbeing of the public environment, it may be considered appropriate to consider the breach as a Level 1 priority.</p>
Alexander Duval	<p>Do complainants have the opportunity to discuss a) the categorisation and b) the decision before it is issued (in case, for instance, there is further information which would be helpful)?</p>	<p>This is a process issue outside of the Enforcement Plan. The Council will prioritise the breach on the basis of the information provided by the complainant. If further information is needed,</p>

		page 12 outlines that in some cases, we may ask complainant for further details. Page 12 also advises that we inform the complainant of the final outcome of their complaint
Alexander Duval	It would be helpful to list the key stages at which updates can be expected	Examples of key stages has been added to page 13, under the heading 'Complaints can expect'
Alexander Duval	Is there any indicative guidance as to the possible spread of timeframes (e.g. up to a maximum of 3 months)?	This is covered under the heading 'Complaints can expect' on page 13 which advises that complainants will be updated at both key stages or at least every eight weeks.
Alexander Duval	Is there a consequence if this timeframe slips? Other timeframes above use 'will' happen rather than 'aim to' happen	This is a performance issue that is not relevant to the Enforcement Plan.
Alexander Duval	In what circumstances will Ward Members be consulted?	This has been updated on page 15
Alexander Duval	Consider whether to list glossary alphabetically	The glossary has been updated alphabetically.

Questionnaire Responses

No Issues

Alan Blackmore
 Beata Seymour*
 Claire Van Der Zant
 Maurice Bacon*
 Michael Arthur 1
 Richard J Eagle

* No issue comment to Question 4 (see below)

Name	Ques	Issue
Kat Geek	1	Substantial works in any area should be in category 1, not only if they are in a conservation area.
Kat Geek	2	Substantial works in any area should be in category 1, not only if they are in a conservation area.
Joel Evans	1	Clarify what constitutes a "major proposal". Does this mean "Major Development" per T&C 2010?
Joel Evans	2	Clarify what constitutes a "non-major proposal"
Joel Evans	4	I see no provision for escalating consequences for serial breaches of condition
Michael Arthur 2	1	Sometimes what you consider case 2 particularly householder complaints may need to be in level 1
Michael Arthur 2	2	Sometimes what you consider case 2 particularly householder complaints may need to be in level 1
Michael Arthur 2	4	The process flow chart box at page 12 does not show a scenario for a breach and application refused
Mike Bear	1	Add changes of use including HMOs; and residential and commercial extensions
Natalie Rogers 1	1	I think the categories covered are not extensive enough
Natalie Rogers 2	1	No mention of conservation areas or development resulting in significant harm to character
Natalie Rogers 2	2	Unsightly buildings or untidy land, development not in accordance with the approved plans
Natalie Rogers 2	4	Other LA's set out their vision and the importance of public confidence through this process.
Roy Gilbert	1	Move from Level 2 to Level 1, residential & commercial extensions, breach of Planning Permission + breaches of condition

Roy Gilbert	3	But this should not be a reason to shelve any action, breaches are breaches!
Roy Gilbert	4	Page 13 Breach. 'No harm demonstrated', I'm sure 99% of cases could be labelled as such?
Wendy Leverage	1	Local listed buildings & archaeological should also be included as well as local heritage assets.
Wendy Leverage	2	Backyard developments should be included. Also tree replacement notices (TRN) should be enforced.
Wendy Leverage	3	Gates into local parks should not be allowed from private residences. No parking on grass verges
Wendy Leverage	4	Enforcement of TRN should be followed up. Blakely house estate wall & other sites in Cuddington Ward

Question 4 - Additional Comments

Name	Additional Comments
Beata Seymour	All seems clear enough. Violations must be severely dealt with if rules are not complied with
Maurice Bacon	One area remains unclear to me. Are small advertisements on my property legal?