

Sutton Council

PLANNING ENFORCEMENT PROTOCOL

Effective: September 2025



London Borough of Sutton Planning Enforcement Protocol

1. Introduction

1.1 The London Borough of Sutton Local Enforcement Protocol provides an outline of the planning enforcement process and the service that you can expect to receive.

1.2 This Protocol has been written in accordance with the Government guidance contained in the National Planning Policy Framework (NPPF), which states:

“Effective enforcement is important to maintain 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. They should consider publishing a local enforcement plan/protocol 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 Protocol will provide information on the following:

- What are our enforcement priorities
- What is a breach of planning control
- How we will investigate an alleged breach
- How we will determine what action to take
- What discretionary enforcement powers we have
- How we will monitor our own performance
- How to report a suspected breach of planning control
- Details of our corporate complaints procedure

1.4 We aim to provide timely and effective procedures for investigating suspected breaches of planning control, as we believe this is essential in maintaining public confidence in the planning system.

1.5 This document has been prepared in accordance with the Council's [Corporate Plan](#).

1.6 Details of the councils publication scheme can be found via the following [Publication scheme](#)

1.7 This Planning Enforcement Protocol outlines the Council's approach to managing alleged breaches of planning control. It aims to provide clarity and understanding for everyone involved in the planning enforcement process. The Council recognizes the importance of a planning system that is responsive to local needs while upholding national standards. This Protocol explains how we investigate concerns, prioritize our actions, and make decisions about taking formal enforcement action. We aim to be proportionate in our response, focusing our efforts on breaches that cause the most significant harm.

1.8 The London Borough of Sutton is committed to delivering a planning enforcement service that is fair, transparent, and proportionate in its actions. Key principles underpinning our approach include:

- **Discretion and Proportionality:** The Council will only take formal action when it is considered necessary and proportionate to the scale and impact of the breach of planning control.

- **Openness and Transparency:** This Protocol aims to make our processes clear and understandable. We will explain our decisions and the reasons for them.
- **Helpfulness:** We will provide information and guidance where appropriate.
- **Consistency:** We will strive to apply our policies and procedures consistently, taking a similar approach in similar circumstances.
- **Expediency:** Decisions to take formal action will be based on whether it is "expedient" to do so, considering the harm caused and the public interest.

The Council's powers and duties in relation to planning enforcement are primarily derived from the following key pieces of legislation:

- The **Town and Country Planning Act 1990** (as amended).
- The **Planning (Listed Buildings and Conservation Areas) Act 1990** (as amended).
- Associated **Regulations**, such as The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and The Town and Country Planning (Tree Preservation) (England) Regulations.

The Council's enforcement activities are also guided by national planning policy and guidance, notably:

- The **National Planning Policy Framework (NPPF)**.
- The **National Planning Practice Guidance (NPPG)**.

These are further refined by Sutton's own Local [Planning Policies](#) and adopted [Local Plan](#).

Sutton's Local Plan 2016-31 was adopted by the Council as a development plan document (DPD) on 26 February 2018. The Local Plan sets out the Council's strategic objectives, planning policies and proposals for the future development and growth of the Borough over a period of 10-15 years and is accompanied by the Local Plan Appendix DPD and Online Policies Map

2. Enforcement Principles

2.1 The purpose of this Protocol is to set out how we will deal with suspected breaches of planning control in an effective, proportionate, consistent and helpful manner.

2.2 Our key objectives are to:

- provide an accessible service that maintains public confidence in the planning system
- provide a response that is prioritised according to the harm (or potential harm) caused by the breach
- achieve a balance between protecting amenity and other interests and allowing acceptable development to remain (or continue) in the absence of permission or harm
- monitor performance in delivering the service

3. Defining a breach of planning control

What do we mean by a breach of planning control?

3.1 Section 171A of Part VII of the Town and Country Planning Act 1990 defines a breach of planning control as:

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

What do we mean by ‘development’?

3.2 Development is defined by section 55 of the Act as:

“the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of any material change to the use of any buildings or other land”

3.3 The most common breaches of planning control in Sutton are:

- building works being carried out without (or not in compliance with) planning permission
- the failure to comply with a condition attached to planning permission
- unauthorised change of use of land and buildings

3.4 The Planning Enforcement Team in Sutton are also responsible for dealing with the following matters, which also fall within the term “planning control”:

- unauthorised works carried out to listed buildings
- the demolition of buildings in conservation areas
- unauthorised works to protected trees (the subject of Tree Preservation Orders) and trees in conservation areas
- the unauthorised display of outdoor advertisements which require consent under the Town and Country Planning (Control of Advertisements) Regulations 2007

3.5 There are time limits within which we can take planning enforcement action against breaches of planning control:

From 25 April 2024 the time limit for taking any form of enforcement action is **ten years**. This includes building or other operations, material changes of use and breaches of condition.

A four-year time limit applies only to:

- breaches involving the building or other operations without planning permission where substantial completion is before 25 April 2024; and
- breaches involving the change of use of any building to use as a single dwellinghouse where the change took place before 25 April 2024.

3.6 Planning enforcement cannot control all aspects of the building process and there are several common issues we are unable to deal with. These include:

- boundary/ownership disputes
- Party Wall Act issues
- covenant issues

3.7 These are private issues which a solicitor or the Citizens Advice Bureau may be able to help with.

4. Investigating an alleged breach

4.1 When a suspected breach of planning control comes to our attention, each case is assigned a response level according to its potential to cause harm. The response level dictates the timeframe for:

- a site visit/initial investigation to be carried out (depending on the nature and complexity of the case, we may need to carry out more than one visit)
- investigating the case to the extent that we can make a decision on the likely course of action moving forwards

4.2 When a person provides **all necessary** information to us relating to a breach of planning control, they will receive an acknowledgement within five working days.

Priority level	Alleged Breach Type	Examples/impact	Site Visit	Target Update
1	<p>Breaches that cause harm over a wide area, impact on a number of people, or cause irreversible harm to historic buildings, areas or trees.</p> <p>For example:</p> <ul style="list-style-type: none"> • a breach that causes (or has the potential to cause) an immediate danger to public health and/or public safety • a breach that causes immediate, serious and potentially irreversible harm to the environment • unauthorised alteration or demolition to a listed building or a building in a conservation area • unauthorised works to protected trees or trees in a conservation area 	<p>Unauthorised demolition of, or significant structural alterations to, a Listed Building. As listed buildings represent the nation's history through the built environment they are of particular importance and many contain features that cannot be replaced or replicated.</p> <p>Felling of a mature tree protected by a TPO.</p> <p>Breaches causing, or with the imminent potential to cause, irreversible, significant, and immediate harm to: Public safety or health. Designated heritage assets (e.g., Listed Buildings, Scheduled Monuments, works within Conservation Areas). Legally protected trees (subject to a TPO or in a Conservation Area)</p>	1-2 working days	2-5 working days

<p>2</p>	<p>Breaches that have a wide impact on the surrounding area and residents but do not require immediate action.</p> <p>For example:</p> <ul style="list-style-type: none"> • a breach that causes harm through loss of amenity to residents within the locality of the breach • unauthorised work which has already been completed to a listed building or a building in a conservation area <p>Cases that are currently at, or being prepared for Public inquiry or enforcement appeal hearing, or prosecution in court where the case officer is required to give evidence. Due to the complexity and unique demands of such occasions, case officers are unlikely to be able to action any other cases during these events as they require full, in-person concentrated dedication. Such events can last anywhere from 1day to 2weeks+</p>	<p>Minor works to protected assets that may cause less than significant harm such as works near a protected Tree or Listed building or a suspected breach of condition related to a listed building consent.</p> <p>Major construction activity that is causing significant and ongoing harm to amenity, highway safety, or the environment, with the potential to escalate if not addressed promptly.</p> <p>Breaches of crucial planning conditions on major developments that undermine the quality or acceptability of the development.</p> <p>Unauthorised changes of use resulting in significant adverse impacts that are clearly contrary to important local planning policies and causing demonstrable harm.</p> <p>Works being carried out within the curtilage of a listed building or development in a conservation area.</p> <p>Buildings works within the canopy of a protected tree.</p> <p>Works carried out to a listed building prior to approval of condition details.</p> <p>High impact piling works, contrary to condition and close proximity to residential dwellings.</p> <p>Works carried out prior to approval of contaminated land conditionals agreed or viable pre-commencement conditions.</p> <p>Unauthorised engineering operations causing immediate land instability.</p>	<p>2-5 working days</p>	<p>2 weeks</p>
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<p>3</p>	<p>Breaches causing some harm to amenity or the environment.</p> <p>Breach of condition that goes to the heart of the permission but is not irreversible.</p> <p>Development that is unlikely to be granted retrospective planning permission without alteration.</p> <p>This category comprises the majority of cases at the initial stage of investigation but are liable to change and can either increase or decrease in priority according to both on-site and off-site factors.</p> <p>For example, following a visit or contact by the case officer, works may cease or be carried out to rectify the issue, in which case the priority level will likely fall to level 4. However if the breach is more severe than first envisaged and/or the harm may escalate then the priority level of the case may increase as a result and to account for officer workloads.</p>	<p>Major unauthorised domestic alterations or extensions with clear external impact(s)</p> <p>Unauthorised changes of use by way of subdivision and creation of additional dwellings that are outside Areas of potential intensification or unlikely to meet required size standards.</p> <p>Material changes of use that could have a severe impact on neighbour amenity.</p> <p>Breach of condition(s) that are required to make an otherwise unacceptable development acceptable.</p> <p>Large single storey or two-storey residential extensions</p> <p>Material alterations to shopfronts in conservation areas</p> <p>Major development not carried out in accordance with approved plans that are fundamental to the approved scheme</p> <p>House in multiple occupation (HMO) or business from home.</p> <p>Oversized development in excess of permitted development or approved plans to a significant degree</p> <p>Development that has been refused planning permission and dismissed at appeal.</p> <p>Change of use of land or building that would be unacceptable in the current location</p> <p>Unauthorised advertisements displayed in a conservation area</p>	<p>5-15 working days</p>	<p>1 month</p>
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<p>4 (low priority)</p>	<p>Technical breaches where the development is likely to be acceptable in planning terms with little or no alterations.</p> <p>Developments that are alleged to be marginally in excess of permitted development conditions.</p> <p>Development sites that are ongoing and incomplete - therefore more than 10years from becoming lawful and no risk of becoming immune from enforcement action.</p> <p>Brownfield developments or development on existing industrial land.</p> <p>Conditions monitoring and or site progress for the confirmation of planning obligation compliance cases</p> <p>Breaches of planning control that have a noticeable but not severe impact on amenity and are unlikely to cause permanent damage. The harm may be reduced or alleviated through officer negotiation or conditional approval.</p> <p>These cases may still warrant investigation but will be addressed as resources permit after the higher priority cases</p>	<p>Most unauthorised advertisements or signage. Erection of small ancillary structures (e.g., sheds, minor fences) that may marginally exceed permitted development limits but cause little discernible harm and fall within the acceptable dimensions of similar structures granted express planning consent.</p> <p>Erection of fences, walls, and other boundary treatments at non domestic locations.</p> <p>Fences, outbuildings, hardstanding, roof extensions, upper floor side facing windows (Domestic properties)</p> <p>Subdivision within Areas of potential intensification</p> <p>Development not being built in accordance with approved plans where the harm is not significant.</p> <p>Other breaches of planning conditions where the impact is not severe.</p> <p>Minor structures that are likely to be Permitted Development.</p> <p>Display of temporary "For Sale" or "To Let" boards, satellite dishes, or flag poles.</p> <p>A case that has already been investigated and closed.</p> <p>CIL Investigations</p> <p>Technical breaches of conditions where the impact is negligible.</p>	<p>These investigations may still warrant a site inspection, with visits being scheduled according to case officer availability once higher priority cases have been addressed</p>	<p>Developments classified as category 4 will be investigated and updated according to officer case loads but Site inspections for these investigations will be undertaken as case officer time and resources permit, after higher priority cases have been actioned.</p> <p>Please be aware that Planning Enforcement can take a significant amount of time to resolve, cases may take years to be fully investigated to their conclusion due to the nature of the planning process and the construction industry.</p>
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Note on Section 215 Notices (Untidy Land)

Complaints regarding untidy land are typically assessed as a Priority 3 (In line with timescales above). However, the response is determined by the specific circumstances and the impact on public amenity.

- **Action May Be Taken:** The council may consider action where the condition of the land or building has a widespread and demonstrable negative impact on the wider public realm, beyond just the immediate neighbours.
- **Action Will Not Be Taken:** Action will generally not be taken for sites that are simply overgrown, not visible from public spaces or become neglected due to unavoidable circumstances such as the personal health of the occupant.
- **Complex Cases:** Certain situations, such as a property undergoing probate after the owner's death, are often beyond the council's immediate control and can take a significant amount of time to resolve.
- **Hoarding:** Cases involving hoarding are managed with sensitivity and in coordination with multiple council departments, following the Council's Hoarding Protocol. This approach addresses the issue as a broader health and wellbeing concern.

For more information on support for hoarding and clutter, please see the following resources:

- [Self Neglect and Hoarding Protocol](#)
- [Tackle Clutter and Hoarding - Safety at Home](#)

4.3 The acknowledgement will include a short description of the suspected breach based on the information provided. We will advise the enquirer of the officer who will carry out the investigation and the response level that it has been assigned. The table above sets out what the enquirer can expect from us.

4.4 Our first step in an investigation is to research the planning history (if any) relating to the land or building.

4.5 An Officer will then visit the site, normally unannounced, to establish the facts and to decide whether there has been a breach of planning control. This usually includes a discussion with the person(s) involved in the suspected breach and may also include a discussion with the enquirer.

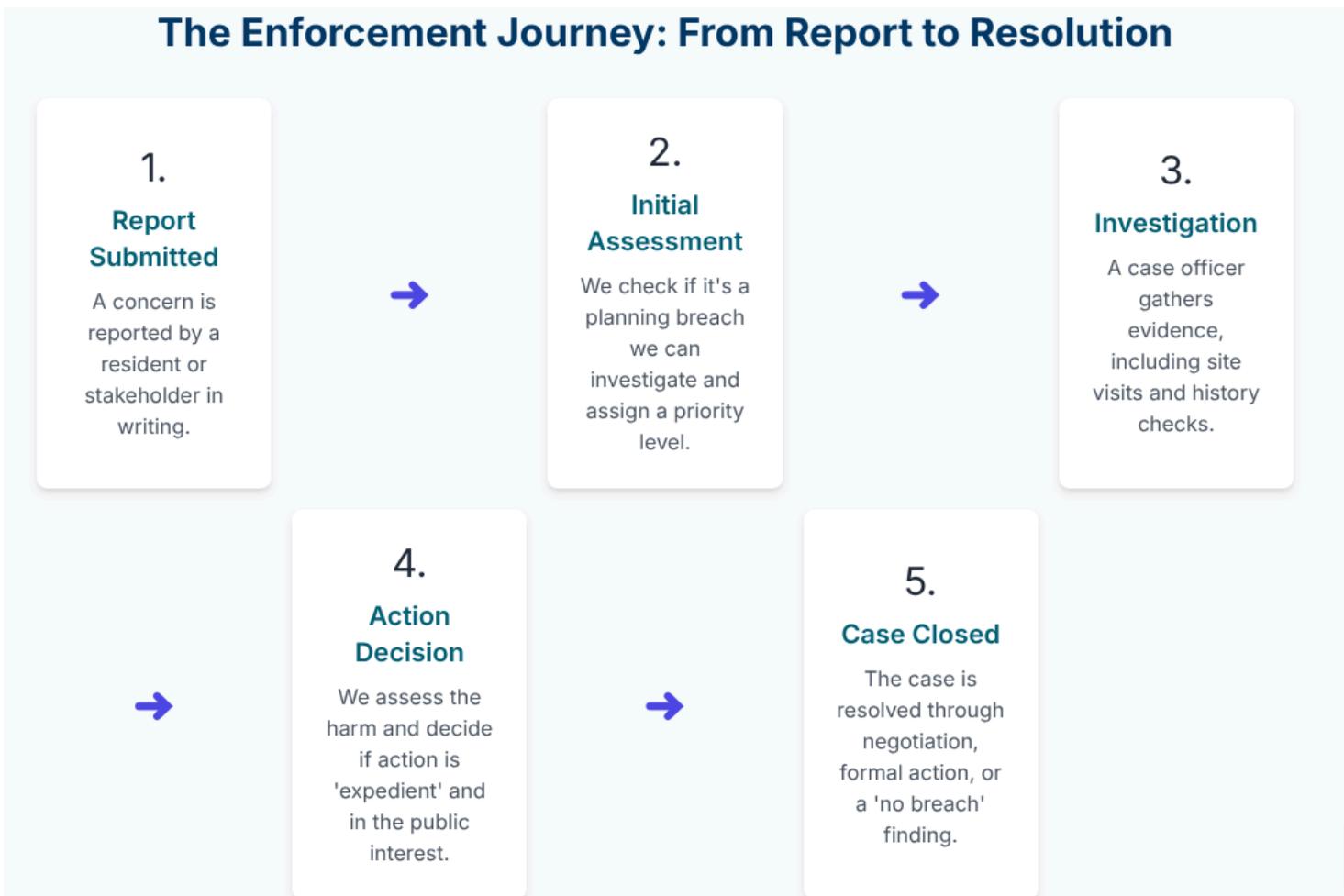
4.6 The Officer may serve a Planning Contravention Notice (see paragraph 6.3) on the owner, occupier or anyone else with an interest in the land if accurate information is required about the breach that they have been unable to obtain by other means. They may also decide to consult others (including legal, licensing, environmental health and housing) before decisions are made about the breach and the remedial action(s) that may be appropriate.

4.7 The Officer may sometimes require the enquirer to provide additional information – which may include a period of monitoring, such as noise level recording equipment placed into the home - to assist with their investigation. Should this be the case, they will contact them outlining what information would be of use. A timeframe (usually a period of 28 days) will be given for your response.

4.8 The matter under investigation might involve the enforcement responsibilities of more than one function of the Council, in which case every effort will be made to ensure that joint visits are made. Our commitment is to work with others to identify the most appropriate and effective statutory power or powers.

4.9 We aim to resolve breaches as quickly as the law will allow and, when appropriate, we notify enquirers of the progress with our investigations.

The Enforcement Journey: From Report to Resolution



5. Determining appropriate action

5.1 Once it has been established that a breach has taken place and harm is being caused, action may then be taken.

5.2 Government guidance states that local councils must act 'proportionately' in responding to suspected breaches of planning control. Our response will always consider the 'public interest test', which is a judgement of whether the costs and risks of taking formal enforcement action are justified by the seriousness of the alleged planning breach, and will reflect:

- the seriousness of the breach
- consideration of harm
- the risks involved
- the costs involved
- the benefits involved

5.3 We will consider the provisions of the development plan, policy and guidance issued by central government and any other material considerations.

5.4 We will also consider the implications of the Human Rights Act 1998, specifically the impact of the proposed action (or inaction) on the human rights of all relevant parties. We will act in a way that is proportionate to the seriousness of the alleged breach and its impact on the person(s) affected.

- Under Section 149 of the Equalities Act 2010 and the Public Sector Equality Duty ("PSED"). Local authorities are under a duty not to discriminate, as both service providers and exercisers

of public function for purposes of the Equality Act 2010. In addition to this substantive duty not to discriminate in the exercise of its functions, local authorities are subject to the public sector equality duty (“PSED”) In planning enforcement, this means they must rigorously assess how their actions could negatively impact people with protected characteristics, such as age or disability. Failing to substantively consider these impacts can lead to legal challenges and render the enforcement action unlawful.

5.5 In deciding the most appropriate course of action, we must consider the effects of the breach and what harm is caused to the amenity of the area. This includes forming a view as to whether planning permission would be granted (if applied for) and considering the evidence and any claims of immunity.

Assessing Harm

5.6 In assessing the effects of a breach and the harm caused, Officers will first consider what harm is being caused, which may include whether the breach is causing harm by way of adverse impact on:

- the character and appearance of a conservation area or listed building
- the character of the area or existing property
- the residential amenity of neighbouring properties
- potential impact on protected species or habitat
- trees in a conservation area or protected by a Tree Preservation Order

5.7 Also, whether the breach is:

- contrary to local planning policies
- causing a statutory nuisance, safety concern or other issue that a different council department or government organisations may be able to assist.

5.8 Officers would then look at the scale and impact of that harm, which may include:

- whether the harm caused by the breach is widespread or localised
- whether the harm by the breach is irreversible
- the significance and scale of the harm
- the urgency to address the breach (i.e. whether the impacts are non-reversible)
- whether the breach is stable or worsening
- whether a planning application for the development would be viewed favourably

5.9 The main issue should be whether, if left unaddressed, the breach of planning control would unacceptably affect amenity or the existing use of land and buildings to the extent that it merits protection in the public interest.

5.10 It is important to note that **not all breaches of planning control will result in formal action**. We will only take formal action when we can demonstrate that the breach causes serious harm to amenity and it is expedient and in the public interest to do so.

5.11 Because our enforcement powers are discretionary, the emphasis will be on attempting to negotiate a resolution in the first instance. The council is required to investigate any reported breaches of planning control, but this investigation may be done remotely (desk-based) and does not always necessitate a formal site inspection by a qualified planning officer. However, there is no requirement to take action. Indeed the council is legally required to consider whether it would be ‘expedient’ to pursue such action having considered all relevant information.

No further action

5.12 Following our initial investigation, we may decide that there has been no breach of planning control. In such cases we cannot take any further action and no further investigation is required.

5.13 Even if there is a breach of planning control, we may decide not to pursue an enforcement investigation if it is **not expedient** to take formal action. This might be because the harm it causes is not significant, or its breach is de-minimis or merely a technical breach. Officers make a thorough assessment and may recommend that formal action would not be in the public interest. The Enforcement Manager will then determine whether to accept the recommendation (close the file with no further action) or determine a different course of action.

5.14 In reaching a decision we must always balance the harm being caused against the likely success of any formal action and the availability of resources.

Retrospective applications

5.15 Rather than immediately resorting to formal powers, we will first try to negotiate a suitable solution wherever possible. This course of action is often the fastest resolution but requires co-operation from relevant parties. A retrospective planning application can sometimes be the most appropriate solution, as it allows us to consider the merits of a development and its impact on interested parties. If the development can be made acceptable by imposing conditions, we may do that rather than refuse permission.

5.16 The Development Management team aims to deal with retrospective applications within 8 weeks of receiving them. If an application is not received in a suitable time frame, we will consider whether formal enforcement action would be expedient. In planning law, a retrospective application is assessed in the same manner as any other application

Formal action

5.17 If we refuse a retrospective application, we will usually attempt to remedy the breach through negotiation. However, where negotiations have been tried and failed or negotiation is not an option, we must consider whether formal action is appropriate.

5.18 We will only proceed to formal action when there is clear evidence of harm and serious conflict with planning policy or other controls which cannot be overcome by the imposition of conditions.

The right of appeal

5.19 An appeal can be made to the Secretary of State against the serving of an enforcement notice and a listed building enforcement notice. An appeal must be lodged before the date on which the notice is to take effect. The appeal has the effect of suspending the notice until the appeal is determined.

5.20 An appeal against a Section 215 notice can be made to the Magistrates Court but must be done before the notice takes effect.

5.21 There is no right of appeal against a decision by the planning enforcement team to take no further action and close the file.

6. Discretionary Powers

6.1 Planning legislation provides a number of discretionary powers for enforcing compliance with planning controls. Although we will almost always try to negotiate or invite a planning application in the first instance, if a solution cannot be reached then formal action may be taken following a thorough analysis.

The power to gather information

6.2 Our Planning and Enforcement Officers are authorised to exercise the power to access land to obtain information they need (we cannot demand access to an occupied dwelling without at least 24 hours' notice). If a resident refuses to let an authorised Officer in, a warrant of entry can be obtained.

6.3 A **Planning Contravention Notice (PCN)** can be issued if there is a suspected breach of planning control. It describes the breach and requires information about it to be provided, including the person(s) involved and their interest in the land. It will set out a time for compliance with the notice.

6.4 A **Section 330 Notice** (under section 330 of the Town and Country Planning Act 1990) can be served if concerned with a suspected breach but the Council does not know who owns the land.

The power to enforce

6.5 A **Temporary Stop Notice** can be issued where we consider that a breach of planning control has occurred and deem it necessary to stop the breach immediately. This notice expires 28 days (or any shorter period set out) after it has been displayed on the land. During this period, we must decide whether to take enforcement action. There are some restrictions on a Temporary Stop Notice, such as that it cannot prohibit the use of a building as a dwelling house.

6.6 A **Breach of Condition Notice** can be issued to ensure full compliance with a condition imposed on a planning permission. The notice sets out the steps to be taken and provides a timeframe (of at least 28 days) for compliance.

6.7 A **Planning Enforcement Notice** can be served to remedy an actual (but not an anticipated) breach of planning control. It can require an unauthorised use of land to stop, or for unauthorised building or engineering works to be removed. It will set out the reasons for issuing the notice and will state a compliance period. The compliance period starts on the day that the notice takes effect and must be a period of at least 28 days.

6.8 A **Listed Building Enforcement Notice** may be issued where works affecting the character of a listed building are carried out in the absence of listed building consent. The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any listed building consent been fully complied with.

6.9 A **Conservation Area Enforcement Notice** may be issued where unauthorised work or demolition to a building has taken place in a conservation area in the absence of appropriate consent. The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any conservation area consent been fully complied with.

6.10 A **Stop Notice** requires any activity within the scope of a breach alleged in an Enforcement Notice to be immediately minimised, reduced or ceased. The notice must be served in conjunction with a full Enforcement Notice, but can be served before an Enforcement Notice has taken effect and regardless of whether an appeal has been lodged.

6.11 A **Section 215 Notice (Amenity Notice/Untidy Land)** can be served if we consider that the condition of land or buildings is causing harm to the amenity of an area. The notice will specify steps that must be taken to remedy the condition of the land. The notice will state a compliance period but cannot take effect until 28 days after its issue.

6.12 **Prosecution** can be brought in cases where any of the following offences have been committed:

- the conditions of a formal notice have not been complied with to our satisfaction or within the specified timescales
- works are carried out to a listed building in the absence of necessary listed building consent
- demolition of a building in a conservation area takes place in the absence of conservation area consent

- works are carried out to a tree which is the subject of a tree preservation order without the necessary consent
- an advertisement is displayed in the absence of the express consent required

Summary of Formal Enforcement Powers

Name of Power	Purpose	Is there a Right of Appeal?	Consequence of Non-Compliance
Enforcement Notice	To remedy a breach of planning control (unauthorised works or change of use).	Yes, to the Planning Inspectorate before the notice takes effect.	Criminal offence. Can lead to prosecution and/or Council direct action.
Breach of Condition Notice (BCN)	To secure compliance with a condition on a planning permission.	No.	Criminal offence. Can lead to prosecution.
Stop Notice	To require an activity to stop immediately where it is causing serious harm. Served with an Enforcement Notice.	No, but can be challenged as part of the appeal against the main Enforcement Notice.	Criminal offence. Can lead to immediate prosecution.
Injunction	To restrain an actual or apprehended breach of planning control. Used in the most serious cases.	No, it is a High Court/County Court Order.	Contempt of Court, punishable by fine or imprisonment.
Enforcement Warning Notice (EWN)	To formally warn of a breach and state what remedial action is required.	No.	No direct penalty, but may be a precursor to a formal Enforcement Notice.

6.13 We will only instigate these proceedings if there is a realistic prospect of conviction and it is in the public interest to do so.

6.14 A person convicted could be subject to a fine and may receive a criminal record. If the breach is not remedied following conviction, we have recourse to further prosecutions which could result in more substantial fines and/or imprisonment.

6.15 Where prosecution does not remedy a breach or the harm caused by it, we have the power to take **Direct Action (Default Powers)**. This enables us to enter land and carry out works contained within a formal notice. We will then charge the landowner for these works.

6.16 An **Enforcement Injunction** can be sought where we consider it necessary or expedient for any actual or anticipated breach of planning control to be restrained. If the terms of an injunction are

breached the relevant party or parties are in contempt of court and an application can be made by the Council for their committal to prison.

6.17 Where it appears that the offender has benefited from their criminal conduct, we will consider issuing proceedings for confiscation under the **Proceeds of Crime Act 2002**.

7. Monitoring our own performance

7.1 To enable the performance of the enforcement team to be monitored (and to provide the timescales for dealing with enquiries) we strive to achieve the standards in the table below.

Task	Target
Formally acknowledge all enquiries.	5 working days
Visit a Level 1 Case.	1-2 working days
Update response on a Level 1 Case.	2-5 working days
Visit a Level 2 Case.	2-5 working days
Update response on a Level 2 Case.	10 working days
Visit a Level 3 Case.	5-15 working days
Update response on a Level 3 Case.	1 month from visit
Respond to communications that are received from interested parties (which may take the form of a 'holding response').	10 working days
Advise the enquirer of the outcome either in writing, email or via telephone.	When deciding to close the file or initiate formal action

7.2 We are committed to acting in a fair and reasonable manner and these standards, taken in conjunction with the priorities listed previously in this document, are intended to ensure that we have an open and consistent approach to enforcement action.

8. Reporting a suspected breach

8.1 We rely greatly on the public to report suspected breaches of planning control.

8.2 If you think that a breach of planning control has taken place, you should inform us via the Council's website in order to contact the Planning Enforcement team directly. This form can also be completed by the Council's Contact Centre on your behalf if you do not have access to the internet.

[London Borough of Sutton's 'Report a Planning Breach' online form](#)

8.3 Please note we do not accept anonymous enquiries, but all reports will be dealt with in accordance with the Council's Data Protection procedure.

8.4 If a report has resulted in a formal case being opened then the case officer contact details will be supplied on the acknowledgement letter alongside the enforcement reference to allow the reporter to make contact directly or request a call-back.

9. Customer complaints procedure

9.1 If you feel that we have not dealt with your enquiry in a manner consistent with the standards contained within this plan, then you should first contact the officer and/or their manager. Disagreement about a planning enforcement decision will not be accepted as a reason for a formal complaint.

9.2 In order to register a formal complaint, please visit the Council's complaints webpage:

[Link to London Borough of Sutton's Complaints Procedure](#)

10. Further information and guidance

10.1 Further information and guidance on the planning enforcement process is available online, at:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

<https://www.rtpi.org.uk/find-your-rtpi/networks/national-association-of-planning-enforcement-nape/>

<https://www.rtpi.org.uk/practice-rtpi/2024/april/planning-enforcement-handbook-for-england/>

<https://www.rtpi.org.uk/practice-rtpi/2021/december/beginners-guide-to-planning-enforcement/>

<https://www.planningportal.co.uk/permission/common-projects>

Appendix A: Frequently Asked Questions (FAQ's)

Is building without planning permission illegal?

This is a common misconception. Carrying out development without the required permission is **not a criminal offence**. It is 'unlawful' or 'unauthorised'. This is why the Council cannot, for example, prosecute someone simply for building an extension without permission.

However, it *is* a criminal offence to carry out works to a Listed Building without consent or to display certain advertisements without consent. It is also a criminal offence to fail to comply with the requirements of a formal enforcement notice once it is in effect.

How long will an investigation take?

This varies greatly. Simple cases may be resolved in a few weeks, but complex investigations can take many months, or even over a year, to conclude. Delays can be caused by the need to gather evidence, legal complexities, negotiations, or if the person responsible lodges a formal appeal against any notice we serve, as this legally suspends the process until the appeal is decided.

Why do you allow people to apply for permission *after* they have already built something?

The law requires the Council to accept and assess 'retrospective' planning applications. The purpose of the planning system is to regulate development and decide what is acceptable in planning terms, not to punish people for failing to apply first. When we assess a retrospective application, the development is judged against the same planning policies as if the application had been made in advance. The fact that the work has already been carried out is not a factor in the decision.

I objected to an application, but it was approved. Why didn't my concerns count?

Your concerns are always considered, but the Council must make its decision based on what are known as 'material planning considerations'. These are matters directly relevant to planning law and policy, such as:

- Local and national planning policies (e.g., our Local Plan).
- Impact on the character and appearance of the area.
- Impact on neighbours' amenity (e.g., significant loss of light or privacy).
- Highway safety and traffic issues.
- Impact on a Listed Building or Conservation Area.

The number of objections received is not a material consideration. One objection based on valid planning grounds carries more weight than hundreds of objections based on non-planning issues.

I wasn't notified about a planning application near me. Is this right?

The Council is legally required to publicise applications, which involves placing a site notice at the property. We are not required by law to individually notify every resident in a wider area. All applications are published on the planning section of the Council's website, and you can register for email alerts regarding planning activity in your neighbourhood.

How can I stop a development I object to?

The most effective way to influence a planning decision is to submit a comment or objection on the application through the Council's website, focusing *only on material planning considerations*. Public opposition alone cannot stop a development that complies with planning law and policy. Once planning permission has been granted, there is no third-party right of appeal for objectors, and the developer has a legal right to proceed with the approved scheme.

Why has the Council decided not to take formal action on a breach?

Not every breach warrants formal action. We may decide not to proceed if:

- The development is a minor or technical breach causing no significant harm.
- The breach has become immune from enforcement due to the passage of time (generally 4 years for building works or 10 years for changes of use and breaches of conditions).

- A negotiated solution or a retrospective planning application resolves the issue satisfactorily

My neighbour has done a huge amount of work to their house without any planning applications. How is this possible?

Many types of extension and alteration to a house do not require a formal planning application. This is because of '**permitted development rights**', which are granted by national government.

These rights allow for various works (such as rear extensions, roof dormers, outbuildings, and converting front gardens to parking) as long as they meet a list of specific criteria regarding size, height, location, and materials. It is therefore possible for a homeowner to carry out many separate projects, none of which individually required an application, leading to a significant overall change to the property. If you believe any of the works exceed the strict limits for permitted development, you can report it for investigation.

My neighbour is building what looks like a small house in their garden. Is this allowed?

This depends on its intended use. Outbuildings such as sheds, home offices, or gyms can often be built under permitted development rights, provided they meet strict size and location rules. The key test is that the outbuilding must be for a purpose 'incidental to the enjoyment of the main house'.

It **cannot** be used as separate, self-contained living accommodation (e.g., as a new house, a holiday let, or a rented annexe with its own kitchen and bathroom). This would constitute the creation of a new dwelling and **always** requires full planning permission. If you suspect an outbuilding is being built for use as a separate home, you should report it to us.

My neighbour's new extension is unfinished and the side wall looks awful. Can you make them complete it?

The planning system cannot force a homeowner to complete a development. Planning permission grants the *right* to build something; it does not impose an *obligation* to build it or to finish it by a certain date. As long as the work that *has* been done matches the approved plans, there is generally no breach of planning control.

While an unfinished wall may be unsightly, the Council has no power to compel completion. Only if the overall condition of the land or building is so poor that it causes serious harm to the amenity of the area could we potentially take action under separate 'untidy land' powers, but the threshold for this is very high.

What common issues are NOT planning matters the Council can control?

Many frequent complaints fall outside the remit of the planning system. We cannot intervene in:

- **Boundary Disputes:** Issues over where your land ends and your neighbour's begins are private civil matters. You may need to consult a solicitor.
- **Building on Your Land:** The planning system does not control land ownership. If a neighbour builds on your land, this is a civil trespass matter.
- **Damage to Property:** This is a civil matter between the individuals involved.
- **Parking Issues:** Parking disputes on the public highway are a matter for the Police or the Council's highways team. Issues with parking on private land are typically a civil matter between residents.
- **Loss of a Private View or Impact on Property Value:** These are not material planning considerations.
- **Breach of a Restrictive Covenant** on property deeds: This is a private legal agreement and can only be enforced by the parties who benefit from it.
- **Party Wall Disputes:** These are covered by the Party Wall Act 1996 and are a civil matter between neighbours.

What happens after I make a report?

An Enforcement Officer will investigate to establish the facts. This can take time. We will assess if a breach has occurred and, if so, whether it is in the public interest to take action.

Appendix B: Glossary of Key Terms

- **Amenity:** A general term used in planning to describe the elements of a place that contribute to its overall character and the enjoyment of residents or visitors.
- **Breach of Condition Notice (BCN):** A formal notice used to enforce the conditions on a planning permission.
- **Conservation Area:** An area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.
- **Enforcement Notice:** The main legal notice used to remedy a breach of planning control.
- **Expedient:** A term used to describe whether it is in the public interest for a local planning authority to take enforcement action.
- **Lawful Development Certificate (LDC):** A legal document issued by a local planning authority that confirms a use or development is lawful for planning purposes.
- **Listed Building:** A building included on the national list of buildings of special architectural or historic interest.
- **Material Change of Use:** A significant change in the way land or a building is used that constitutes "development".
- **National Planning Policy Framework (NPPF):** The document setting out the Government's planning policies for England.
- **Operational Development:** Physical building, engineering, or other works on land.
- **Permitted Development:** Development for which planning permission is automatically granted by national legislation, provided certain conditions and limitations are met.
- **Planning Inspectorate:** The government agency that deals with planning appeals.
- **Tree Preservation Order (TPO):** An order made by a local planning authority to protect specific trees, groups of trees, or woodlands in the interests of amenity.

Appendix C: Contact Details for Partner Organisations

- **Sutton Council Building Control:**
 - For dangerous structures and Building Regulation enquiries.
 - Website:
- **Sutton Council Environmental Health:**
 - For statutory nuisance complaints (noise, odour, light pollution).
 - Website:
- **Highways Authority (Sutton Council / Transport for London):**
 - For issues on the public highway.
 - Website:
- **The Environment Agency:**
 - For major environmental incidents.
 - Incident Hotline: 0800 80 70 60
 - Website: www.gov.uk/government/organisations/environment-agency
- **Historic England:**
 - For information and advice on the historic environment.
 - Website: www.historicengland.org.uk
- **The Planning Portal:**
 - For general planning information and guidance on permitted development.
 - Website: www.planningportal.co.uk