

**THURROCK BOROUGH COUNCIL**

**Planning –  
LOCAL ENFORCEMENT PLAN**

***Adopted December 2024***

# CONTENTS

	Page
Introduction	3
What we can and cannot investigate	3
Our approach	4
How to report a breach of planning control	4
Our priorities	5
Enforcement principles	6
Expediency	6
Informal and formal action	6
Proceeds Of Crime Act 2002	7
Proportionality	7
Communications	7
Time Limits	7
Your Role	8
Public Engagement	8
The Enforcement Process	8
Monitoring and Performance	9
Planning contacts	9
APPENDIX A – Flow chart setting out the enforcement process	10
APPENDIX B – Enforcement powers available to the Council	11
APPENDIX C – Explaining common planning terms and language	13
APPENDIX D – Relevant legislation, policies and guidance	16
APPENDIX E – Other agencies/useful information	17

# INTRODUCTION

*“Effective enforcement is important to 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. They 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.”*

Paragraph 59, National Planning Policy Framework (2023)

1. As the Local Planning Authority, the council is responsible for investigating suspected breaches of planning control reported by members of the public. Our Local Enforcement Plan explains how we carry out our enforcement duties, what our priorities are and the types of enforcement action that may be taken.
2. The Government’s National Planning Policy Framework (2023) explains that effective enforcement is important to maintain public confidence in the planning system and its decision-making process.
3. National Planning Policy Practice Guidance gives more detailed advice on the enforcement process and should be read in conjunction with our Local Enforcement Plan: <https://www.gov.uk/guidance/ensuring-effective-enforcement> .

## WHAT WE CAN AND CANNOT INVESTIGATE

4. Planning enforcement concerns suspected breaches of planning control and the scope of what we can investigate is limited to matters that fall within the planning regime.
5. These include:
  - Building, engineering or operational development carried out without planning permission
  - Material changes in land-use
  - Breaches of planning permission, its conditions or S106 agreement
  - Illegal advertisements
  - Unauthorised works to a listed building
  - Emergency and/or repair works to a listed building
  - Unauthorised works to protected trees and hedges
  - Unauthorised demolition in conservation areas
  - Where the condition of land adversely affects amenity
6. We cannot and will not investigate concerns that fall outside the scope of planning, for example private civil matters, neighbour disputes or issues that are regulated by other legislation.
7. Some examples of common complaints that are not planning matters (these matters will not be investigated by planning enforcement, however there may be other means the Council can take action) include:

- Party-wall disputes
- Boundary disputes or trespass
- Deeds and Covenants
- Neighbour disputes or the conduct of builders
- Building Regulation issues
- Health and safety concerns
- Environmental issues regulated by other legislation
- Internal works to non-listed buildings
- Public rights of way
- Highway obstructions

## OUR APPROACH

8. Our guiding principles are to protect amenity (such as a residential amenity) and to act fairly, consistently and proportionately.
9. Any action proposed must be proportionate to the breach of planning control to which it relates
10. We will tailor each investigation according to the requirements of the legislation and follow best practice guidance. For example, for planning enforcement notices relating to unauthorised development (including change of use), we aim to answer the following questions during each investigation:
  - Is there development?
  - Is there a breach of Planning Regulations?
  - Can the breach be resolved through negotiation?
  - Is the breach causing harm?
  - Is enforcement expedient?
11. If the Council considers action should be taken, further questions arise, such as:
  - What steps should be required in the notice\* to remedy the problem?
  - How should these steps be carried out?
  - When should these steps be completed?

\* Details of Notices can be found in Appendix B
12. For everyone's benefit, enforcement notices should be clear, precise, and accurate. This means the council needs sufficient detail and evidence to draft a notice that, in the public's interest, contains reasonable grounds that could be enforced in court.
13. Resolution without the need for formal legal action is a primary aim since this resolves the planning breach in the most effective way. Formal action may be considered where this is not possible.
14. Certain breaches, such as felling a protected tree without consent, are an offence which could result in prosecution.

## HOW TO REPORT A BREACH OF PLANNING CONTROL

15. You can report a breach by using the form on the Council's website. This can be done by using 'My Account', which will automatically populate your name and contact details.
16. The form can still be completed without setting up a 'My Account'. Online reporting of suspected breaches of planning control is the fastest way to notify us of your concerns,
17. However, if you cannot access the online form then a report can be sent to:

Planning Enforcement  
Civic Offices  
Grays  
RM17 6SL

Or you can email the relevant information (see below) to [DevControl@thurrock.gov.uk](mailto:DevControl@thurrock.gov.uk)

18. Please provide the following information:

- Your name, address and contact details. These will remain confidential
- The address where the breach is taking place;
- What the breach is and when it started;
- Where possible a photo of the works (this helps us prioritise the breach).
- Where possible, the name, address, email/telephone number of who is carrying out the work.

19. If you report a breach to us, your details are kept strictly confidential, in line with the General Data Protection Regulations (GDPR) 2018 and the Data Protection Act (DPA) 2018. Our Data Protection Policy sets out how we comply with these regulations and is available to view on our website, [www.thurrock.gov.uk](http://www.thurrock.gov.uk).

20. We do not investigate anonymous or vexatious complaints.

## OUR PRIORITIES

21. Breaches of greatest impact will take priority. These include unauthorised development, breaches of planning permission and those that cause harm to heritage assets, protected trees and those that cause serious harm to the living conditions of residents or local amenity.
22. We will try to investigate all breaches reported to us, but we may take a little more time to look into technical breaches. It is important for us to operate in an open and transparent manner, so we have set out clearly what our enforcement priorities are:

Priority Level		
<b>Priority 1:</b> Irreversible harm	<b>Priority 2:</b> Medium harm	<b>Priority 3:</b>

		Minor technical breaches or those that cause little or no harm
<p>Examples of type of breach:</p> <ul style="list-style-type: none"> <li>• Works that are harmful to listed buildings</li> <li>• Unauthorised demolition of buildings in conservation areas</li> <li>• Works to protected trees</li> <li>• Serious unauthorised development</li> <li>• Serious breaches of planning permission</li> </ul>	<p>Examples of type of breach:</p> <ul style="list-style-type: none"> <li>• Development causing unacceptable harm to residential amenity</li> <li>• Development that harms the character/appearance of a conservation area</li> <li>• Inappropriate commercial uses</li> <li>• Breach of planning conditions that cause noise, disturbance or loss of privacy</li> <li>• Loss of permanent dwellings or the creation of substandard homes</li> <li>• Development or a change of use that causes unacceptable highway safety harm</li> </ul>	<p>Examples of type of breach:</p> <ul style="list-style-type: none"> <li>• Developments or breaches where minimal harm is anticipated</li> <li>• Temporary breaches</li> <li>• Breaches that would be likely to be granted planning permission</li> <li>• Estate agent boards and small advertisements</li> </ul>
<p><b>Site visit target:</b></p> <p>1 working day (depending on severity)</p>	<p><b>Site visit target:</b></p> <p>10 working days</p>	<p><b>Site visit target:</b></p> <p>15 working days</p>

## ENFORCEMENT PRINCIPLES

23. Enforcement is governed by rules set out in statute. These rules are used to identify whether there has been a breach, and provide tools specific to the type of breach. Statutory rules also govern the availability, timeframes and process of appeals.

24. The statutory rules provide some general principles that are fundamental to the planning enforcement process and determine the scope of enforcement action. Over time, a considerable body of case law has grown around these rules, and provides guidance.

### Expediency and Discretion

25. The council is not required to enforce simply because a breach has occurred. Enforcement action is discretionary and where a breach causes little or no harm, or where it may otherwise accord with our planning policies, we may conclude there is no justifiable planning reason to take action or there is little or no adverse impact. Planning

enforcement notices for unauthorised development (including change of use) require the council to decide whether it is expedient to enforce the breach of planning control. Breach of condition notices do not need to satisfy the expediency test, because the reasonableness of the conditions would have been demonstrated at the time of granting the planning permission.

26. As a general rule, if planning permission would likely have been granted had an application been received, it would not be appropriate to enforce. This in-built discretion is how the Government intends this form of regulation to operate. An example of this might include a minor or insignificant change in design that raises no new planning issues. Matters such as listed buildings in need of repair or land adversely affecting amenity do not fall within this rule.

### **Informal and formal action**

27. We recognise that not all breaches are intentional, and the Council will usually try to resolve the situation informally, with an explanation as to why the Council considers a breach has occurred and then through negotiation with the responsible party
28. If negotiation is not successful, we have a range of enforcement powers at our disposal. These include service of enforcement notices, breach of condition notices, section 215 (harm to amenity) notices, listed building enforcement notices, discontinuance notices, high court injunctions and even criminal proceedings where an offence has been committed. In some cases we may also exercise our default powers and enter land to carry out remedial works. Where this type of action is taken we will seek to claim our costs from the landowner. Appendix B lists these powers in more detail.
29. The council will use a range of tools at its disposal when carrying out investigation into alleged breaches of planning control. Most investigations are carried out by an Enforcement Officer visiting the site. However, where appropriate and with the correct authorisations in place, the council will use drones to ascertain an alleged breach of planning control.

30. Non-compliance with a notice or appeal may result in prosecution

### **Proceeds of Crime Act 2002**

31. In the event of a successful prosecution for a continued breach, if financial gain has been obtained as a result of the unlawful activity enforced against we may apply for a Confiscation Order under The Proceeds of Crime Act 2002 (POCA).
32. The Proceeds of Crime Act 2002 is a powerful piece of legislation. Thurrock Council will consider using the whole range of the civil and criminal provisions contained within this legislation where offenders have benefitted from their unlawful conduct.

### **Proportionality**

33. Use of these powers must be carefully weighed against the severity of the breach. National policy explains that enforcement action should be proportionate to the harm caused and should take into account the council's adopted planning policies and other relevant material considerations.

34. We must also consider the impact of our actions on affected parties, including their human rights. Our adopted Development Plan, which is currently the Core Strategy and Policies for Management of Development (2015), together with associated documents, can be found on the council's website.

### **Communications**

35. If you have reported a breach and an investigation is started, we will send you an acknowledgement letter confirming the investigation reference and the name of the investigating officer.
36. We will aim to keep you updated at key points in the enforcement process, for example when a site visit has been carried out and we are able to confirm if there is or isn't a breach, when we have decided what action (if any) to take and when the case is recommended to be closed.

### **Time limits**

37. Breaches of planning control become lawful over time if formal enforcement action has not been taken. This is set out under section 171B of the Town and Country Planning Act 1990. These limits are summarised in the table below:

<b>Type of breach</b>	<b>Time limit for enforcement action</b>
Unauthorised building works (not a statutory listed building)	10 years from completion of works
Creation of a new residential dwelling	10 years from commencement of occupation
Unauthorised change of use	10 years from the commencement of the use
Breach of a planning condition	10 years from the commencement of the breach
Unauthorised display of an advertisement	10 years from the date of its first display
Criminal proceedings for works to a protected tree	6 months from the date of the offence being confirmed

### **Your role**

38. We may ask you for further information in the form of written statements, logs, photographs or evidence. If an appeal is lodged or an investigation progresses to court, you may also be asked to appear as a witness. Your help can be an essential component of taking successful enforcement action.



## **PUBLIC ENGAGEMENT**

39. It is important to regularly seek the view of our local councillors, residents and groups on their experience of the enforcement process and understand the particular development pressures in their area.
40. We will provide updates on a quarterly basis in a report attached to the Planning Committee Agenda for March, June, September and December each year.

## **THE ENFORCEMENT PROCESS**

41. Every enforcement case is different and how it progresses will depend on a number of factors including gaining access to the site, the willingness of those responsible to cooperate, the complexity of the issues being dealt with, appropriate use of resource and whether an appeal or legal challenge is mounted against formal enforcement action.
42. The judgement of whether and/or when it is considered expedient to take enforcement action will also vary from case to case. Factors can include the impact on amenity of a breach or the level of investigation or evidence considered appropriate.

## **MONITORING AND PERFORMANCE**

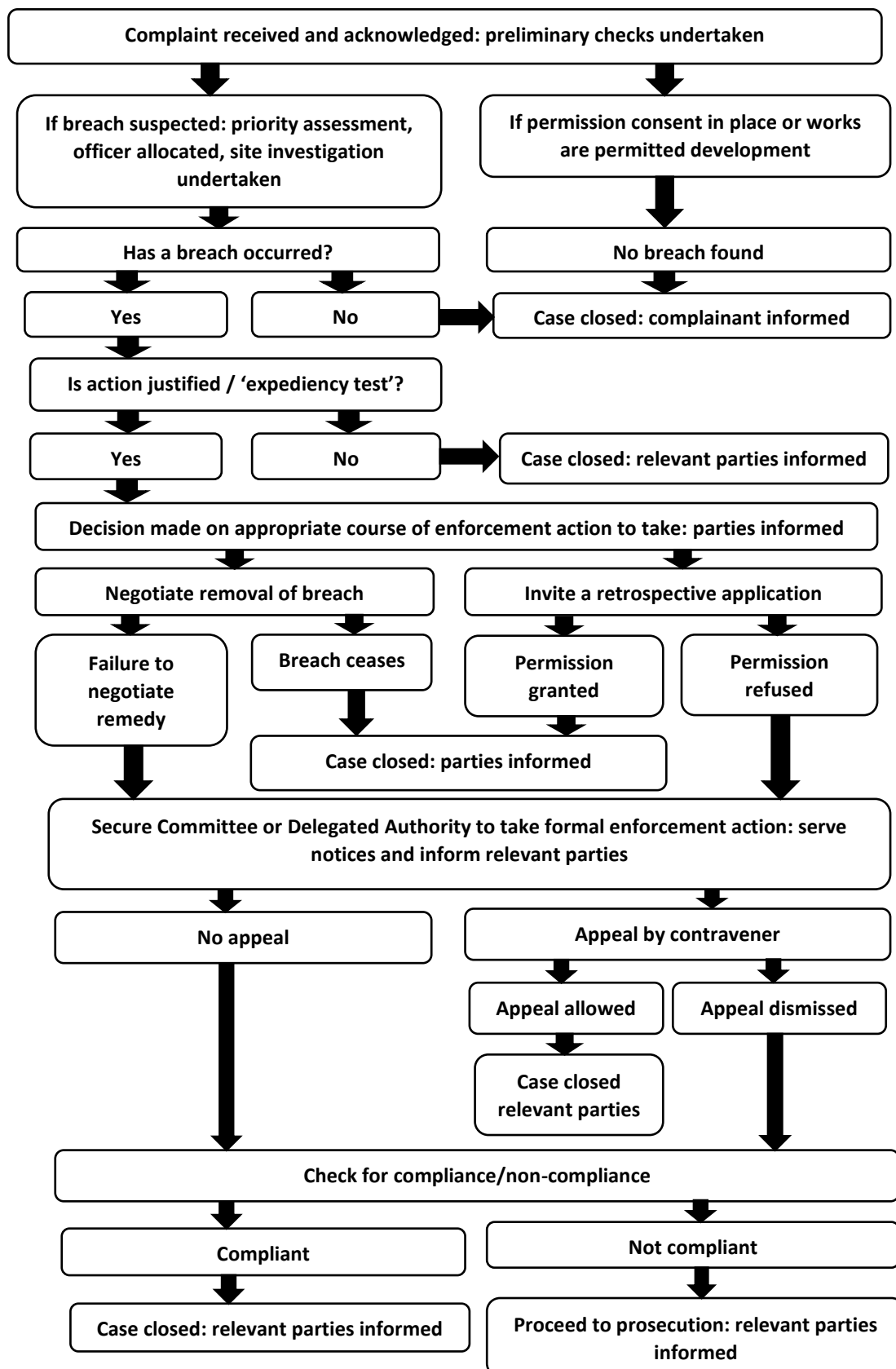
43. To ensure we operate in a transparent way and are accountable to elected officials our performance is monitored on a monthly basis. This includes how many breaches are resolved and how many instances of formal enforcement action are taken.
44. When a case is closed, its contents are publicly available through the Freedom of Information Act/Environmental Information Regulations. Sensitive information, such as people's names, contact details and private photographs would be redacted. We will not disclose the names of people who have reported a breach to us. However, should they be party to legal proceedings then their name may become available.

## **PLANNING CONTACTS**

Enforcement complaints can be reported either:

- Email: [development.management@thurrock.gov.uk](mailto:development.management@thurrock.gov.uk)
- Online: [Report an alleged breach of planning control - Thurrock Council](#)

## APPENDIX A – FLOW CHART SETTING OUT THE ENFORCEMENT PROCESS



## **APPENDIX B – ENFORCEMENT POWERS AVAILABLE TO THE COUNCIL**

### **Planning Contravention Notice (PCN)**

Issuing a PCN, which is a legal notice to bring the breach to the attention of the owner/occupier, requires the alleged contravener to provide certain information within 21 days. Failure to respond could result in prosecution in the Magistrates Court.

### **Enforcement notices**

An enforcement notice is a legal document requiring the owner/occupier to take specific steps to remedy the planning breach within a specified time. Failure to comply with the notice results in the breach becoming a criminal offence, which can be prosecuted in the courts. The notice may be appealed to an independent Government Planning Inspector who can decide to uphold the notice, amend it or have it quashed. The requirements of the notice are suspended during the appeal process. Interested parties can make representations to the appeal.

### **Breach of Condition Notice (BCN)**

A BCN is issued where the unauthorised activity is in breach of a condition attached to a planning permission. It is an alternative to an enforcement notice and requires compliance with the condition. Failure to comply is a criminal offence and there is no right of appeal.

### **Stop notices and temporary stop notices**

A stop notice is issued in conjunction with an enforcement notice in order to require the cessation of works that are causing serious harm. Contravention of such a notice gives a liability of immediate prosecution. A temporary stop notice is similar to a stop notice but is only valid for 56 days and does not require an associated enforcement notice to be issued at the same time, but follow-up enforcement notices to any temporary stop notice served is often advisable.

### **Removal of advertisements**

In some cases, the council can remove advertisements displayed in breach of planning regulations, providing the required notice is served on those responsible for its display.

### **Section 215 notices**

Notices issued under section 215 of the Town and Country Planning Act 1990 are legal documents, which require the owner/occupier to remedy the condition of the land and/or building where it adversely affects amenity. It provides a minimum of 28 days to take effect. Failure to comply with the notice is a criminal offence. In such circumstances, the council also has the powers to enter the land, carry out the work identified in the notice and recover the costs of doing this from the owner. Before the notice takes effect, an appeal can be made to a Magistrates Court on grounds set out in sections 217-218 of the Town and Country Planning Act 1990.

### **Listed building enforcement notices**

Where unauthorised works have been carried out to a listed building, a listed building enforcement notice may be served requiring remedial works to be carried out to remove any unauthorised additions and reinstate features of historic or architectural importance.

### **Listed building repairs notices**

If a listed building has been neglected and fallen into poor condition, a listed building repairs notice may be served requiring detailed steps to be carried out to bring the building back into a good state of preservation. Failure to comply with the notice may allow the council to apply to the Secretary of State for an Order to acquire the property.

### **Urgent works notice**

Where a listed building requires immediate steps to be taken to make it structurally safe and weatherproof, an urgent repairs notice may be served requiring those steps to be taken within 7 days. In the event of non-compliance the council may enter the land and carry out the works in default. Any costs incurred will be charged to the owner.

### **Court Injunction**

We could apply to the Court for an Order preventing an activity or operation taking place. Failure to comply with such an order is a criminal offence.

### **Criminal proceedings**

Where a breach has occurred that amounts to a criminal offence, we may seek to prosecute those responsible for the breach. Such action is usually reserved for the most serious of planning control or where there is clear lack of any action required to comply with an enforcement notice. Where such proceedings are successful, the Courts have powers to issue fines. The council may also consider applying for an order to confiscate any financial benefit accrued from the offence (Proceeds of Crime Act 2002 – see above).

### **Default powers (direct action)**

The council can enter the land and secure compliance with the enforcement notice, but only where it is clear that there is an established failure to comply with an enforcement notice within the given time period. This power is only used in extreme circumstances. We will then seek to recover all such associated costs.

### **Discontinuance action**

Where an advert benefitting from deemed consent may be causing serious harm to visual amenity or a danger to the public, we can issue a discontinuance notice which revokes the deemed consent and requires removal of the advertisement.

## APPENDIX C – EXPLAINING COMMON PLANNING TERMS AND LANGUAGE

**Advertisements** is defined in section 336(1) of the Town and Country Planning Act 1990 (as amended) as “any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used or designed, or adapted for use and anything else principally used, or designed or adapted principally for use, for the display of advertisements.”

**Advertisement Control** - the process whereby a local planning authority decides whether an advertisement which is being displayed, or about to be displayed, is acceptable in terms of amenity and public safety and is being displayed in accordance with the Town and Country Planning (Control of Advertisements) Regulations.

**Amenity** - the pleasant or normally satisfactory aspects of a location, which contribute to its overall character and the enjoyment of residents or visitors.

**Appeal** - the process whereby an applicant can challenge an adverse decision on an application by means of written representations, an informal hearing or formal inquiry proceedings. Appeals can also be made against the failure of the planning authority to issue a decision, against conditions attached to a permission and against the issue of an enforcement notice.

**Building Control Regulations** are minimum standards for design, construction and alterations to virtually every building

**Change of Use** - more correctly referred to as a 'material change of use'. A change in the use of land or buildings that is of significance for planning purposes, often requiring planning permission.

**Complaint** – a report of suspected breach of planning control

**Conditions** - stipulations attached to a planning permission to limit or direct the manner in which a development is carried out.

**Conservation Area** - an area given statutory protection under the Planning Acts, in order to preserve and enhance its character and townscape.

**Construction Management Plans** - Helping to minimise the impact of construction. Sometimes we require developers and contractors to prepare a Construction Management Plan (CMP) to help minimise the impact of construction.

**Deemed Consent** - this allows the display of certain "specified classes" of advertisement without first having to make an application to the local planning authority. Under the Control of Advertisements Regulations there are 14 Classes, all of which are subject to strict conditions and limitations.

**Development** - the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or land.

**Development Plan** - document (usually a local plan, Core Strategy and other adopted planning policy documents) that sets out in writing and/or in maps and diagrams a local planning authority's policies and proposals for the development and use of land and buildings in the authority's area.

**Express Consent** - this is needed to display an advertisement, which does not benefit from deemed consent under the Town and Country Planning (Control of Advertisements Regulations).

**Enforcement** - procedures by a local planning authority to ensure that the terms and conditions of a planning decision are carried out, or that development carried out without planning permission is brought under control.

**Established use** - a use which does not conform to a plan but against which enforcement proceedings cannot be taken, often because of the length of time a use has been in operation.

**Expediency** – a review of whether a breach of planning control causes material harm or adverse impacts and compliance with planning policies to establish if further enforcement action will not be warranted.

**General Permitted Development Order (GPDO)** - the Town and Country Planning (General Permitted Development) Order 1995 grants rights (known as permitted development rights) to carry out certain limited forms of development without the need to make an application for planning permission.

**Lawful Development Certificate** - a procedure by which existing or proposed uses and other forms of development can be certified as lawful for planning purposes. An application has to be made to the local planning authority and there is a right of appeal against their decision.

**Listed Building** - building or other structure of special architectural or historic interest included on a statutory list and assigned a grade (I, II\* or II). **Listed Building Consent** - a permission required for the alteration or demolition of a listed building.

**Local Plan** - statutory development plan prepared by a local planning authority setting out detailed policies for environmental protection and development.

**Local Planning Authority** - the local authority or council that is empowered by law to exercise planning functions. This is normally the local borough or district council, but in National Parks and some other areas there is a different arrangement.

**Material Consideration** - a matter which should be taken into account in deciding on a planning application or on an appeal against a planning decision.

**Permitted Development Rights** - rights to carry out certain limited forms of development without the need to make an application for planning permission, as granted under the terms of the Town and Country Planning (General Permitted Development) Order 1995.

**Planning permission** in simple terms, it is like asking if you can do a certain piece of building work. It will be granted (possibly subject to certain conditions) or refused.

**Planning Obligations and Agreements** - legal agreements between a planning authority and a developer, or offered unilaterally by a developer, ensuring that certain extra works related to a development are undertaken, usually under Section 106 of the Town and Country Planning Act 1990.

**Section 106 Agreement** - a binding agreement between a council and a developer associated with a grant of planning permission and regarding matters linked to the proposed development.

**Supplementary Planning Guidance** - additional advice issued by a local planning authority expanding upon its statutory policies.

**Tree Protection Orders** - a Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of

amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority's written consent

## **APPENDIX D - RELEVANT LEGISLATION, POLICIES AND GUIDANCE**

All relevant and current legislation and planning policies will be taken into consideration when assessing a breach of planning control, this includes:

- Town and Country Planning Act 1990 (as amended) ("the Principal Act") and all its subordinate and associated subsequent and secondary legislation including The Town and Country Planning General Permitted Development Orders, Use Classes Orders, Development Management Order and Advertisement Regulations
- Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning and Compensation Act 1991
- Planning and Compulsory Purchase Act 2004
- Localism Act 2011 Planning Act 2008
- Equality Act 2010, section 149 Human Rights Act 1998
- Local Government Act 1972
- Anti-Social Behaviour Act 2003
- Caravan Sites & Control of Development Act 1960
- Clean Neighbourhoods & Environment Act 2005
- Countryside & Rights of Way Act 2000
- Environment Act 1995
- Environmental Protection Act 1990
- Police & Criminal Evidence Act 1984
- Proceeds of Crime Act 2002
- Growth and Infrastructure Act 2013
- National Planning Policy Framework 2023
- Planning Practice Guidance
- Planning Practice Guidance/ Enforcement and post-permission matters
- Enforcement of planning law
- Town and Country Planning Act 1990 Section 215: best practice guidance
- Use of planning conditions
- Planning policy for traveller sites
- Dealing with illegal and unauthorised encampments
- Unauthorised encampments: using enforcement powers
- Neighbourhood Plans
- Conservation Area Statements



## **APPENDIX E - OTHER AGENCIES/USEFUL INFORMATION**

The following links provide additional information on the enforcement process.

Thurrock Borough Council:

<https://www.thurrock.gov.uk/>

Royal Town Planning Institute:

<https://www.rtpi.org.uk>

Planning portal:

<https://www.planningportal.co.uk/permission/responsibilities/planning-permission/failure-to-obtain-or-comply-with-planning-permission>

Ensuring effective enforcement:

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

National Planning Policy Framework 2023:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Advertisement guidance:

<https://www.gov.uk/government/publications/outdooradvertisements-and-signs-a-guide-for-advertisers>

Guidance on TPOs and trees in conservation areas:

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservationareas>