

# DEVELOPMENT CONTROL

## REGENERATION, PLANNING AND COMMUNITY SERVICES

### PLANNING ENFORCEMENT SERVICE



Council Offices  
Thorpe Road  
Weeley  
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Essex  
CO16 9AJ

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### THE ENFORCEMENT SERVICE

The service deals with alleged breaches of planning control. This includes works to listed buildings, trees, hedgerows and advertisements.

When works take place without the necessary permission, the Council has a range of powers available to:

- Find out whether a breach of control has occurred,
- Identify what harm has been caused and
- Remedy the situation.

If you are concerned about a possible breach of planning control, as an individual, parish council, group or as a business please write to us. It helps us if you give as much information as possible and tell us what harm it is causing you.

### WHAT HAPPENS IF YOU MAKE A COMPLAINT

We will:

- ☐ Register all telephone, e-mail and written complaints
- ☐ Acknowledge letters and e-mails within 3 working days.
- ☐ Not necessarily pursue a complaint made anonymously.

### HOW ARE COMPLAINTS PRIORITISED?

**Urgent Cases** (related to criminal offences or significant expenditure).

5 Working days – for initial response following assessment

- Unauthorised works to listed buildings.
- Removal of Tree Preservation Order trees, protected hedgerows and significant unauthorised work to trees in Conservation Areas.
- Where there is a significant threat that failure to act quickly will result in significant harm.

### **Fast Track**

10 Working days – for initial response following assessment:-

- Significant alleged harm.
- Significant ongoing works which are not nearing completion and are likely to result in action being required.
- Highway safety issues.
- Cases in which there is significant local interest being shown.

### **Standard**

28 Days – for initial response following assessment:-

- Other breaches of condition
- Completed work
- Untidy sites
- Cases in which no obvious harm is apparent
- Advertisements when no danger to highway safety alleged/apparent.
- Minor domestic works

## **PROCESSING A COMPLAINT**

- ☐ In 2 out of every 7 cases we find that there is no breach of planning control. We will write and explain why.
- ☐ We will normally discuss the issues raised with the landowner and/or developer. If possible we will try to agree a remedy.
- ☐ We will request the submission of a retrospective application where there is a likelihood of permission being granted. This allows the local community to comment on the proposals. This is in line with Government advice.
- ☐ We will inform the complainant by letter within 5 working days when retrospective applications are registered.
- ☐ If an application is not submitted, we will decide if an Enforcement Notice should be served. If the unauthorised development is considered not to cause harm, then enforcement action will not be taken. We will write and explain why.

## **ENFORCEMENT ACTION**

- ☐ It is not a criminal offence to carry out development that should have first been the subject of a planning application.
- ☐ Only a minority of complaints need formal enforcement action.
- ☐ Enforcement action can only be taken where there has been material harm caused to public amenity. The Council is not required to take action simply because there has been a breach of control.
- ☐ Enforcement Action could consist of one or more of the following:-
  - The service of:-
    - An Enforcement Notice (including Listed Building Enforcement Notice)
    - A Breach of Condition Notice
    - A Stop Notice
    - A Notice under Section 215 of the Act (“untidy site notice”)
  - Obtaining an Injunction
  - Prosecution
  - Direct Action (“in default”) by the Local Planning Authority

- ☐ Enforcement Notices must contain the names of all the owners and occupiers of the property and we have to make sure they are served a notice. The notice itself has to be precise as to what action the council wants taken and by what date. There are rights of appeal and the notices can be challenged if they are inaccurate.
- ☐ When conditions imposed on a planning permission are being disregarded, the council can serve a “Breach of Condition Notice” on the developer or occupier. If this is not complied with, we can take legal action. There are no rights of appeal against a Breach of Condition Notice.
- ☐ We will inform the complainant within 10 working days by letter when an Enforcement Notice has been served and when the Notice takes effect.

## **CONFIDENTIALITY**

- ☐ We cannot keep the identity of public bodies, such as parish councils, confidential.
- ☐ The Council during investigations will keep individual identities confidential. However if the matter becomes the subject of an enforcement appeal or court action, that confidentiality cannot always be maintained.
- ☐ Please be aware that if we action your complaint it may be obvious to the person that it is you who has complained. Whilst we will not reveal who you are, we will have to say that a complaint has been received.

## **WHAT CAN YOU DO TO HELP?**

- ☐ Provide as much information as possible when making the complaint. It is preferable if this is in writing. It is important that you tell us the harm that you are suffering.
- ☐ Where appropriate, keep a diary of the possible breach of control.
- ☐ Be prepared, if necessary, to give evidence at an enforcement appeal inquiry or in the courts.

## **WHO TO WRITE TO**

Please send any written complaints to:

Enforcement & TPO Manager  
Tendring District Council  
Council Offices  
Thorpe Road  
Weeley  
Clacton-on-Sea  
Essex  
CO16 9AJ