

Epsom and Ewell

Planning

Enforcement

Plan 2024



Plan for Dealing with Potential Planning Breaches

July 2024

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INTRODUCTION

Summary

1. This document sets out how the Council will deal with potential planning breaches. It provides information and guidance for residents, developers and those with other interests, on how complaints about unauthorised development are handled. It seeks to balance the concerns of local residents with the rights of owners and sets out the priorities and timescales for responding to complaints, carrying out investigations and taking appropriate enforcement action where necessary.

Definition of Development

2. Development is defined within [Section 55 of the Town and Country Planning Act 1990](#) and “means 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 other land”.
3. The development and use of land and buildings is controlled by planning legislation and policies, including but not limited to:
 - [Town and Country Planning Act 1990 \(as amended\)](#)
 - [Planning \(Listed Buildings and Conservation Area\) Act 1990 \(as amended\)](#)
 - [Environment Act 2021](#)
 - [National Planning Policy Framework 2023](#)
 - [National Planning Policy Guidance](#)
 - [Epsom and Ewell Core Strategy 2007](#)
 - [Epsom and Ewell Development Management Policies Document 2015](#)
 - [Epsom Town Centre Area Action Plan 2011](#)

Effective Enforcement

4. Breaches of planning control are also covered by planning legislation. Most breaches are not criminal offences, with some exceptions including unauthorised works to listed buildings, trees subject to a Tree Preservation Order and unlawful advertisements.
5. [Paragraph 171A of the Town and Country Planning Act](#) refers to carrying out development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted as constituting a breach of planning control.
6. [Paragraph 59 of the NPPF](#) states that “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 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.”
7. Epsom and Ewell Borough Council receives, on average, 250 enforcement queries per year. The Council is committed to providing an efficient and effective planning enforcement service.

Purposes of the Planning Enforcement Plan

8. The purpose of this Planning Enforcement Plan is to outline and explain:
 - 1) The definition of development and the purpose of enforcement of development
 - 2) What the planning enforcement service comprises and how it is delivered
 - 3) How it intends to address deficiencies identified in the audit of the enforcement service
 - 4) How the Council will deliver the enforcement service
 - 5) The principles of planning enforcement
 - 6) The role of the customer and Ward Members
 - 7) What constitutes a breach of planning control
 - 8) How and when to report a breach
 - 9) Prioritisation of cases for investigation
 - 10) Rights of access onto sites to investigate alleged breaches
 - 11) How the Council undertakes its investigation of a potential breach of planning control
 - 12) When the Council will take appropriate enforcement action
 - 13) The process for closing a potential breach of planning control
 - 14) What the Council's options are when a breach continues
 - 15) Timescales for delivering an effective enforcement service
 - 16) How and how often the Council will communicate with complainants and owners
 - 17) Monitoring of compliance
 - 18) The procedure for the handling of complaints
 - 19) How the Planning Enforcement Plan will be reviewed
 - 20) Human Rights obligations

Enforcement Audit

9. The Council's Planning Enforcement Service was subject to audit in 2023-24, which highlighted a number of actions required, including in relation to recording and prioritising of cases, and communication with complainants, which have been incorporated into this version of the Planning Enforcement Plan as part of the Council's desire to continually improve the Service.

Adoption of the Local Requirements List

10. This Planning Enforcement Plan is a wholesale review of the Planning Enforcement Plan 2021. It was adopted by the Council's Licensing and Planning Policy Committee on 11 July 2024.

THE ENFORCEMENT SERVICE

The Enforcement Service

11. All complaints received by the Council are investigated by an enforcement officer who, in most instances, in conjunction with the Planning Development and Enforcement Manager and Head of Place, decide what action should be taken.

Delivery of the Enforcement Service

12. The Council's Planning Enforcement Service can investigate the following:
- Unauthorised building works and/or engineering works or change of use of land/buildings
 - Non-compliance with conditions attached to planning permissions
 - Display of unlawful advertisements
 - Unauthorised internal and external works to listed buildings
 - Listed buildings in serious disrepair
 - Condition and appearance of buildings and/or land that is visually detrimental to the area
 - Unauthorised development that causes detrimental environmental and biodiversity harm
 - Relevant demolition (requiring Planning Permission or Listed Building Consent)
13. Decisions of a case are based on the merits of each individual case, and enforcement action is taken only when it is considered rational, reasonable, proportionate, and expedient.

Principles of Planning Enforcement

14. Enforcement action is based upon the following five principles:

Principle	Explanation
Proportionality	<ul style="list-style-type: none"> • Applying action that is appropriate to the scale of the alleged breach and the seriousness of the harm caused • Adopting the most efficient and cost-effective approach relative and proportionate to the risks • Prosecuting where there is a failure to comply with any formal notice when it is in public interest to do so • Adopting direct action where appropriate, having regard to harm and public safety
Consistency	<ul style="list-style-type: none"> • Applying a similar approach in similar circumstances to achieve similar results • Keeping regular contact with complainants
Transparency	<ul style="list-style-type: none"> • Applying clarity with all parties with respect to Council processes and procedures, rights of complaint and appeal processes • Responding to correspondence in a timely fashion • Accepting feedback to learn and improve.
Targeted enforcement	<ul style="list-style-type: none"> • Raising awareness to reduce unauthorised works and increase public confidence • Working proactively with stakeholders to ensure that the required checks are met prior to the commencement of development • Retaining open communication channels with residents
Accountability	<ul style="list-style-type: none"> • Monitoring and reviewing procedures regularly • Delivering an annual performance report to the Council's Planning Committee and the Licensing and Planning Policy Committee • Acknowledging and addressing identified shortfalls

REPORTING A BREACH

Identifying Breaches

15. It is recognised that the primary channel for identifying breaches is via customer involvement and the Council will strive to maintain open and transparent channels to facilitate this. Advice can be found on the [Council's website](#) and the first point of contact is the Council's enforcement officer who can be contacted at planningenforcement@epsom-ewell.gov.uk. To avoid enforcement issues altogether, it is accepted good practice that neighbours should talk to each other to attempt to resolve any issue between them.
16. Elected Ward Members are representatives of residents and are available to help resolve issues about planning enforcement. Concerns can be raised with your ward member and if necessary, they will discuss the matter further with the Council's enforcement officer. Your ward member can be found [here](#).

When a Breach May Not Exist

17. It is not an offence to carry out development without first obtaining planning permission.
18. Permission can be permitted development (provided permitted development rights have not been removed by condition or Article 4 Direction) within the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#). The most common forms of permitted development include but are not limited to:
 - Rear or side extensions
 - Loft conversions (with or without hip to gable roof extensions, rear dormers or rooflights)
 - Garage conversions
 - Outbuildings in the rear garden (used in a way that is incidental to the existing dwelling)
 - Front fences
 - Change of use of dwellings to a small HMO (six or fewer unrelated occupants)
19. It may also be that the alleged breach is not development within the scope of [Section 55\(2\) of the Town and Country Planning Act 1990](#) or that planning permission has already been granted. You can review the planning history of a site on the [Council's portal](#).

Reporting a Breach

20. If you still believe that a breach of planning control has occurred, you can submit a complaint via the [Council's website](#). You will need to register if you are submitting a complaint for the first time. A form can also be mailed out to you by phoning Customer Services on 01372 732000.
21. When submitting the complaint, it is important to be descriptive in terms of the address, location, and the details of the alleged breach. A contact email should be provided. Photographs are effective can be included.
22. The Council will not investigate anonymous complaints as we need to be able to understand the complaint, identify the harm, make a fair assessment, and decline anything that might be malicious and vexatious.

INITIAL ASSESSMENT

Prioritisation

23. Prioritisation of a complaint allows for due consideration of a case based on the significance, urgency, and seriousness of a reported breach. The basis for prioritisation is found at Table 1. In the case of any dispute with prioritisation of a case, officers may re-prioritise cases where the circumstance permit but the final decision rests with the Head of Place.

Visting the Site (and Rights of Entry)

24. In most circumstances, a site visit will be required to ascertain the alleged breach, but a desktop assessment may suffice. This could include measuring the dimensions of a building or investigating the internal areas of a building (such as an allegation relating to a building being used as an HMO or a separate dwelling).
25. [Section 196A of the Town and Country Planning Act 1990](#) states that if there are reasonable grounds for entering land, an authorised officer can enter the land at a reasonable hour to ascertain whether there is or has been a breach of planning control and whether and how the Council's powers should be exercised
26. The Council also has powers to enter land and carry out the requirements of the notice themselves under [section 178 of the Town and Country Planning Act 1990](#) in relation to the serving of a notice. It is an offence to wilfully obstruct anyone who is exercising those powers on the local planning authority's behalf. The use of these powers will be adopted in a proportionate manner.

Table 1: Prioritisation Levels

Level	Category	Definition	Examples of Breach	Initial Review	Initial Contact
1	High	A serious breach requiring immediate action	<ul style="list-style-type: none"> • Development to a Listed Building • Large scale development over a wide area • Development causing ongoing and immediate harm to the public and/or environment, including where there are physical and mental health implications • Development in the Green Belt, except for minor residential development • Illegal encampments on any land • Works to a protected tree • Breaches of working hours 	Within 2 working days	Within 4 working days
2	Medium	Some level of harm but not requiring immediate remedy	<ul style="list-style-type: none"> • Development within a Conservation Area • Changes of use • Unsafe buildings • Any other development not within Level 1 or 3 	Within 10 working days	Within 15 working days

Level	Category	Definition	Examples of Breach	Initial Review	Initial Contact
3	Low	Minimal and easily reversible harm	<ul style="list-style-type: none"> • Untidy land or premises • Fences, walls, and gates • Satellite dishes or flues • Advertising signage 	Within 20 working days	Within 25 working days
4	Nil	Not subject to planning enforcement (see note)	<ul style="list-style-type: none"> • Internal works to a non-listed building • Boundary and party wall disputes • Land ownership or civil matters • Legal covenants • Devaluation of property • Parking and traffic enforcement issues • Graffiti and anti-social behaviour • Noise and odour nuisance • Potential future breaches 	Within 30 working days	Within 30 working days

Note: The Council or Partner Agencies have other powers to deal with some matters where it does not relate to the non-compliance of a planning condition.

DECISION MAKING

Enforcement Options

27. Once an initial assessment has been carried out, we will notify the owner or occupier of the property that has been complained about as to whether the complaint falls into the category of a breach of planning control. Timeframes for making contact are found at Table 1 above.
28. The Council will either
- a) Identify no breach and close the case, choosing not to take any further action
 - b) Identify a breach but take no further action, on account of it not being expedient to do so
 - c) Identify a breach and take further action, proportionate to the extent of the breach

No Breach

29. If no breach is identified, the case will be closed, and both the complainant and owner will be informed and provided with an explanation as to why the case was closed. This should occur within the timeframes identified in Table 1.
30. The Council will generally not take formal action and close a case in the following circumstances:

Table 2: No Breach Options

Circumstance	Explanation
Immune from Enforcement Action	<p>Where the Council is unable to take enforcement action because the time limit (as specified in Section 171B of the Town and Country Planning Act) from the date the development is substantially completed has been reached</p> <p>The Council has 10 years to take enforcement action, after which the development becomes lawful. The owner can apply for a Certificate of Lawful Existing Use or Development after this period to regularise the situation. This involves providing evidence that proves, on the balance of probability, that the breach of planning control has occurred continuously for 10 years.</p> <p>Note: The 10-year limit for bringing enforcement action will apply where alleged operational development was substantially completed on or after 25 April 2024, or where the date of an alleged change of use to a single dwellinghouse was on or after 25 April 2024.</p>
Permitted Development	Where the works fall within permitted development tolerances under the terms of the Town and Country Planning (General Permitted Development Order) (England) 2015 .
Not Development	Where the works are not defined as development under Section 55 of the Town and Country Planning Act , the change of use is not material within the scope of the Town and Country Planning (Use Classes) Order 1987 (as amended) or it is de minimus (too minor to fall under the scope of planning control).
Breach Has Ceased	Where the breach is temporary and has since ceased (this may or may not involve communication with the owner of the land).

Circumstance	Explanation
Complies with Planning Permission	Where there is an existing planning permission, and it is clear and unambiguous that the development is lawful within the scope of that permission.
Not Planning Related	Where the breach is identified as not being planning related or subject to a condition in a planning permission. This may or may not be redirected to another department.
Advertisement	Where it benefits from express or deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 .
Highways Matter	Where the breach falls within the remit or on the land owned by Surrey County Council.
Unable To Contact Complainant	Where the Council makes two consecutive attempts to clarify aspects of the alleged breach and no response is received and it is not possible to further the case.

Not Expedient to Take Action

31. The Council's planning enforcement powers are discretionary, and we will not take action simply because there has been a breach of planning control.
32. Enforcement action will be taken where the Council is satisfied that it is 'expedient' to do so, having regard to the provisions of the Development Plan and to any other material planning considerations. 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.
33. Planning breaches may be unintentional or be considered technical or very minor. The Council will take action when it is considered fair and reasonable to do so and is proportionate to any harm caused.
34. In some cases, although there is a breach in planning control, the harm caused may be minor, meaning action is not justified and it is not expedient to pursue the case.
35. At this point, an expediency report will be prepared, and this will explain the reasons for why the breach is not expedient to take action against having regard to the relevant planning considerations. The report will be reviewed and signed off by the Manager of Planning and Enforcement. This report is publicly available and can be requested by emailing the enforcement officer or planningenforcement@epsom-ewell.gov.uk.
36. The case is closed at this point and the complainant notified

Expedient to Take Action

37. Although 'harm' is not defined in the Planning Regulations, harm can include an unacceptable impact on:
 - Visual amenities and the character of the area
 - Neighbouring amenities such as privacy, outlook, dominance, and daylight/sunlight
 - Noise, odour and light pollution and contamination
 - Highway safety/access/traffic

- Health and safety
- Undesirable precedent
- Ecology, trees, and landscape
- Amenity standards of users of the development

38. If a breach has occurred, it is open to the Council to take formal action, where it is expedient to do so. This is a matter of discretion, depending on the individual circumstances of the case.
39. The Council will generally take further action by contacting the owner and advising of the action that they will be required to take to remedy the breach. Negotiation is encouraged in all but the most serious cases as the best way to resolve a breach and in some cases can be more expedient than issuing an enforcement notice. In the first instance, the owner will be afforded the opportunity to remedy the breach. This is usually in the form of an initial letter.
40. The processes and outcomes where a breach is identified is outlined in Table 3.

Table 3: Breach Options

Circumstance	Explanation
Initial Letter	<p>The owner and/or relevant party will be given a reasonable timeframe, depending on the circumstances of the case but often 20 working days, to comply with the specified requirements. The complainant will also be kept informed.</p> <p>Should this period expire without the breach being remedied, the case officer will carry out a second assessment, taking into account the current intentions and actions of the owner and/or relevant party to this point.</p>
Voluntary Compliance	Where the Council contact the owner to cease the use or remove any unauthorised development and the owner removes or resolves the alleged breach, this is known as voluntary compliance.
Planning Application	<p>Where the Council contact the owner to cease the use or remove any unauthorised development, the owner can choose to regularise a breach by submitting a planning application, whether or not this is invited by the Council.</p> <p>Where the application is approved, this regularises the breach and the case can be closed. Where the application is refused, the process continues.</p>
Enforcement Warning Notice (EWN)	<p>Under Section 172ZA of the Town and Country Planning Act 1990, the Council has the option of issuing an enforcement warning notice (EWN) which formalises the process to invite a retrospective planning application, but only where there is a reasonable prospect of being acceptable in planning terms. The notice will set out the breach and state that, unless an application is made by a specified date, further enforcement action may be taken.</p> <p>Issuing an EWN will constitute the taking of enforcement action, which is relevant to the 'second-bite' provisions. A flow chart is at paragraph 69.</p>
Planning Contravention Notice (PCN)	This is a notice which allows the Council to collect evidence which will help to determine if a breach is taking place and the next steps. The owner and/or person responsible have 15 working days to respond and failure to do this may

Circumstance	Explanation
	result in prosecution. Upon receipt of the information, the Council will then decide further steps, including whether to close the case.
Enforcement Notice	<p>Where the Council are unable to negotiate an acceptable solution within a reasonable timescale, the enforcement notice allows the Council to formally require a breach of planning control to be remedied. The notice will outline the breach, the land to which it applies, the commencement date of the notice, the steps required to remedy the breach and the time period for compliance.</p> <p>Government guidance states that enforcement notices should only be served when expedient to do so. Failure to comply within the specified timeframe is a criminal offence which can lead to prosecution proceedings. Enforcement notices can be appealed, and the Planning Inspectorate can decide to uphold the notice, amend it or have it quashed.</p>
Breach of Condition Notice (BCN)	This requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the Local Planning Authority in the notice. There is no right to appeal against this notice and prosecution can be brought in the Magistrates' Court for the offence of contravening a breach of condition notice.
Section 215 Notices	Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Section 215 Notice requiring the owner or occupier to remedy the condition of the land or building. Failure to comply with the Notice is a criminal offence. The council has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner.
Stop Notice	This can be used in conjunction with an enforcement notice where the breach is causing serious harm and should only be used in extreme cases. In such cases where stop notices are issued the Council may be liable to pay compensation if it is later decided that the stop notice was not appropriate.
Temporary Stop Notice	These are similar to stop notices but take effect immediately from the moment they are displayed on a site and last for up to 28 days. A temporary stop notice would be issued only where it is appropriate that the use or activity should cease immediately because of its effect on (for example) amenity, the environment or public safety. It may be issued even when planning permission has been granted for development, for example, in a case where the developer is not complying with conditions attached to the permission.
Listed Building Enforcement Notice	Where works occur to listed buildings or the demolition of a building in a conservation area without consent, a notice will require rectification of works. It is a criminal offence and prosecution may occur alongside the enforcement notice, subject to severity/context. There is a right of appeal and no time limit to taking enforcement action. Historic England will be consulted on damage or unauthorised works to Grade I and II* Listed Buildings.
Urgent Works Notice	This is a notice that applies to unoccupied listed buildings in serious disrepair. It enables the Council to order urgent works to preserve the building, for example to make it weather tight and secure. If the notice is not complied with the Council may carry out the works in default and recover the costs from the owner.

Circumstance	Explanation
Planning Enforcement Order	Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action (Section 171B of the Town and Country Planning Act 1990) have expired. A planning enforcement order enables the Council to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.
Tree Replacement Notices	It is a criminal offence to cut down, lop, wilfully destroy, or damage a protected tree without the Council's consent. The Council can prosecute for breaching a Tree Preservation Order. There is no time limit to taking enforcement action. Where a tree has been unlawfully felled, it is open to the Council to issue tree replacement notices, requiring trees to be replanted/replaced. The process flowchart for a Tree Replacement Notice is found here .
Discontinuance Notice	Under Section 97 and 102 of the Town and Country Planning Act 1990 , the Council can issue a discontinuance notice to require the discontinuance of the use, impose conditions or require steps to alter or remove the building. This will be imposed where the Council considers it is in the interests of the proper planning of the area. There are rights of appeal and for compensation.
Removal Notice	Removal of any structure used to display an advertisement will be sought where the notice is not complied, including undertaking the works ourselves and recovering the expenses for doing so.
Completion Notice	Under Sections 94-96 of the Town and Country Planning Act 1990 , the Council may issue a Completion Notice, which requires the owner or occupier to finish a development, if they feel that it is unlikely to be finished in a reasonable period. Failure to comply invalidates the planning permission.

Determining Whether it is Expedient

41. A tool to assist in assessing harm is set at Table 4. It accounts for various factors to assist with determining whether formal action should be taken. This is only one of the tools/tests that the Council will use to assess whether formal enforcement action should be taken. For formal enforcement action to be taken, it is likely that the harm score will need to be >6.
42. At this point, an expediency report will be prepared, and this will explain the reasons for why the breach is expedient to take action against having regard to the relevant planning considerations. The report will be reviewed and signed off by the Manager of Planning and Enforcement. This report is publicly available and can be requested by emailing the enforcement officer or planningenforcement@epsom-ewell.gov.uk. Where enforcement relates to such matters as illegal encampments, the Council may consult with Police.
43. The accompanying notice, if applicable, will usually be reviewed by the Council's legal officer. Given the legal complexities and importance for serving a watertight Notice, this process is often elongated.
44. Where voluntary compliance is achieved, the case is closed, and the complainant advised. Where a planning application is submitted, the case is closed, and the outcome of the planning application (or any subsequent appeal) is monitored. If the planning application is refused, a new case is opened. If a Notice is served, a new case is opened. Closure will only

occur when the actions within the Notice are completed. The complainant is contacted at the point of closure in all cases.

Table 4: Tool for Assessing Harm and Expediency

Question		Answer	Rating	Score
1	Is the breach	Deteriorating	1	
		Stable	0	
2	Highway safety issue	Yes	2	
		No	0	
3	Other safety issue not covered by other legislation	Yes	2	
		No	0	
4	Causing detrimental or irreversible environmental harm	Yes	1	
		No	0	
5	Complainant	Immediate neighbour	2	
		Parish Council/Other	1	
		Anonymous/malicious	0	
6	Age of breach	<6 months of immunity	2	
		< 3 months old	1	
		> 3 months old	0	
7	Is there harm	Widespread	2	
		Local	1	
		None	0	
8	Major planning policy breach	Yes	1	
		No	0	
9	Flood risk	Yes	1	
		No	0	
10	Breach of condition/Article 4 Direction	Yes	1	
		No	0	
11	Conservation Area or adjacent to	Yes	1	
		No	0	
12	Listed Building or affecting the character or setting	Yes	1	
		No	0	
13	Sensitive site (eg SSSI, Ancient Monument, Listed Garden, Archaeological Importance)	Yes	1	
		No	0	
14	Undesirable precedent	Yes	1	
		No	0	
Total				

Enforcement Warning Notices

45. The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 were made on 2 April 2024. These are the regulations that came into force on 25 April 2024.
46. As specified at Table 3, the Council can issue an Enforcement Warning Notice (EWN), inviting regularisation applications when it appears that a development has taken place in breach of planning control. It is served when negotiations begin and if the Council consider it necessary to do so. The process for doing so is at paragraph 69.
47. An EWN will need to be suitably authorised and sits alongside a report. Like an enforcement notice, an EWN is served on the owner and occupier and who else has an interest in the land. There is no power to issue to anyone else (eg person merely working on the land).

Service is affected by the methods set out in Section 329 of the Town and Country Planning Act 1990 and must be entered into the Section 188 register. Whilst it applied to future landowners, occupiers or parties, there is nothing to bind a future party.

Public Register

48. In accordance with [Section 188 of the Town and Country Planning Act 1990](#) and [Article 43 of the Town and Country Planning \(Development Management Procedure \(England\) Order 2015\)](#), the Council maintains a register of all current notices (including enforcement notices, stop notices, breach of condition notices, planning enforcement orders and enforcement warning notices) at the Council offices. This can be viewed by the public upon request.

Withdrawing of Notice

49. There may be circumstances where the Council chooses to withdraw an enforcement notice. This is usually where the party on which the notice is served is able to demonstrate that it was unreasonably served, where a new notice would be better suited or the existing notice is no longer relevant. If the notice is withdrawn, the relevant parties are notified and the notice is removed from the public register.

FAILURE TO COMPLY

Failure to Comply with Formal Notices

50. The Council will maintain a register of enforcement notices and will seek compliance with the terms of an enforcement notice within the specified time period.
51. Where a notice has been served and has not been complied with, there are three options available to the Council to attempt to resolve the breach. Where these measures are undertaken, a new case is opened, and the complainant informed. Closure will only occur when the following actions are completed.
52. It is not an offence to fail to comply with a EWN and there is no right of appeal to the Planning Inspectorate.

Table 5: Options After the Notice is Served

Circumstance	Explanation
Direct Action	Where the terms of an enforcement notice or section 215 notice have not been met within the compliance period (other than the discontinuance of the use of land), the Council will consider whether it is expedient to exercise our powers to enter the land and take the steps to remedy the harm. The Council would seek to recover from the person who is the current owner of the land any expenses the Council reasonably incurred by action taken to remedy the harm.
Prosecution	<p>Court action can occur against any person who has failed to comply with the requirement(s) of any enforcement notice, or Breach of Condition Notice where the date for compliance has passed and the requirements have not been complied with. Prior to commencing with any proceedings, the Council will need to be satisfied that there is enough evidence to offer a realistic prospect of conviction and it is in the public interest.</p> <p>Unauthorised adverts and unauthorised works to any tree the subject of a tree preservation order are offences, and we can initiate prosecution without the need to issue a notice.</p>
Injunction	Where an enforcement notice has not been complied with, and the circumstances of the case suggest direct action or prosecution would not be an effective measure, we will consider applying to the Court for an injunction.

SERVICE STANDARDS

Timescales

53. There is no set time for the completion of investigations due to the categorisation and complexity of the case/breach, the level of engagement of the relevant parties and varying workloads. Nonetheless, the enforcement service will strive to reach a decision on whether to take action within 40 working days of receipt of the complaint

Communication

54. Complainants will be contacted at the following stages:
- Acknowledgement, including priority level, within 3 working days
 - An initial assessment within the timeframes in Table 1
 - When an application is requested or received, within 2 working days
 - When an enforcement notice is served, within 2 working days
 - When closed, including the reasons why
 - If ongoing, at least once every 40 working days
 - Where further details are required
55. If there is a lack of communication from a complainant, the Council will close the enforcement case due to insufficient evidence. As a complainant, you will be advised of this approach in writing beforehand.
56. Owners of the properties that are complained about will be contacted in the following circumstances:
- If a potential breach is identified, to communicate the circumstances of the breach
 - If necessary, to arrange a suitable time for an inspection of the breach
 - To outline what steps are required to resolve any breach and the possible consequences if those steps are not taken
 - To be afforded an opportunity to remedy the breach, through voluntary compliance or regularisation via a planning application
 - When a Planning Contravention Notice (PCN) is served
 - Where formal enforcement action is intended (if attempts to negotiate a remedy fail)
 - When a formal enforcement notice is served, including information on how to appeal
57. An interested party can email PlanningEnforcement@epsom-ewell.gov.uk at any stage and a response will be provided within 5 working days.

Confidentiality

58. Details submitted to the Council, including who submitted the complaint, will remain confidential, including when subject to a Freedom of Information request.. You may also be asked provide evidence to assist in legal proceedings.

Monitoring of Enforcement Delivery

59. Monitoring of enforcement is important to demonstrate that the enforcement service is operating in a transparent manner; that it adheres to its responsibilities; and that its performance is openly monitored and reviewed.

60. The Council will present a quarterly performance report to the Council's Planning Committee outlining the following quarterly performance measures, including, where relevant, reference to previous quarters to illustrate changes:
- 1) Number of cases received
 - 2) Number of cases closed
 - 3) Average number of days with which cases are closed
 - 4) Number and outcome of enforcement appeals
 - 5) Number and outcome of prosecutions
 - 6) Number and outcome of injunctions
61. Where shortfalls are identified, measures will be contained in the quarterly report.

Complaints

62. Epsom and Ewell have limited enforcement resources and are deal with approximately 250 cases each year. It is recognised that it may not always be able to meet the above targets. In the first instance, make contact with the enforcement officer at PlanningEnforcement@epsom-ewell.gov.uk or Planning Support at PlanningSupport@epsom-ewell.gov.uk.

Review of the Planning Enforcement Plan

63. The Planning Enforcement Plan will be reviewed to reflect changes in legislation and guidance and to address deficiencies and feedback. The review will be tabled to the Licensing and Planning Policy Committee for adoption.

Table 6: Table of Service Standards

Stage	Time Period
Initial review of case (Level 1)	2 working days
Initial prioritisation of case	2 working days
Initial acknowledgement of case to complainant	3 working days
Initial contact with complainant/owner (Level 1)	4 working days
Initial review of case (Level 2)	10 working days
Initial contact with complainant/owner (Level 2)	15 working days
Initial review of case (Level 3)	20 working days
Initial contact with complainant/owner (Level 3)	25 working days
Initial review of case (Level 4)	30 working days
Initial contact with complainant/owner (Level 4)	30 working days
Final resolution of case (subject to other factors)	40 working days
Final decision conveyed to parties (subject to final resolution)	40 working days
Periodic update of unclosed case (where possible)	40 working days
Contact with complainant when application invited/submitted	Within 2 working days
Contact with complainant when notice served	Within 2 working days
Period for compliance when owner sent initial letter	20 working days
Period of compliance for Notice/EWN	As specified in notice
Period for response to PCN	Within 15 working days
Length Stop Notice period lasts for	28 days
Response to email received from complainant/owner	5 working days
Response to formal Stage 1 complaint	15 working days
Reporting of enforcement delivery to Planning Committee	Every 3 months
Review of Planning Enforcement Plan	Where required

HUMAN RIGHTS

Human Rights Act

64. The [Human Rights Act 1998](#) outlines rights that must be balanced against the public interest in regularising the breach of planning control. These include:
- Part 1, Article 8 relates to the right to respect for private and family life, home, and personal correspondence
 - Part 2, Article 1 relates to the right to protection of property, including peaceful enjoyment of possessions.

Equalities Act

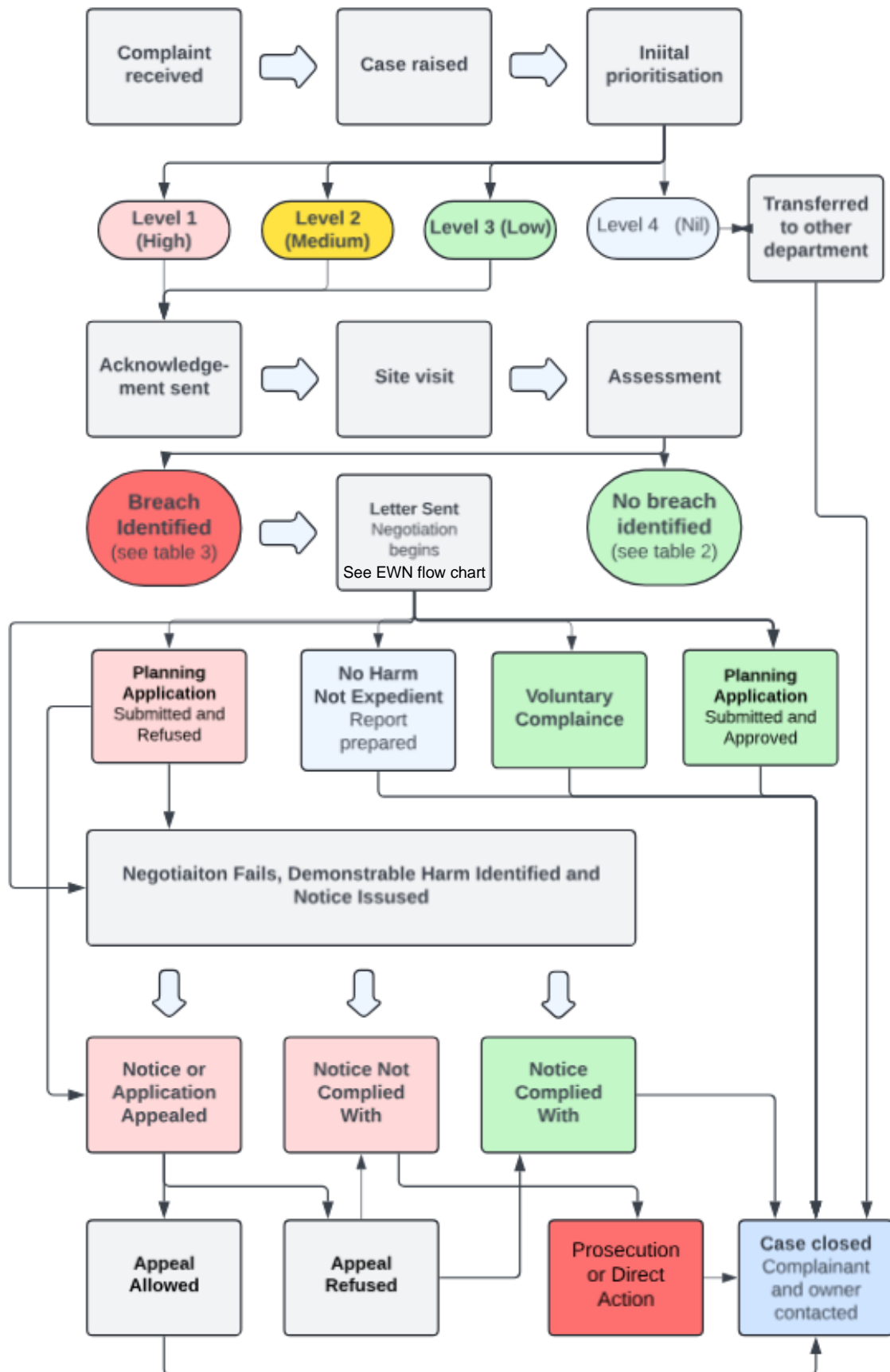
65. The Council must also have regard to its public sector equality duty (PSED) under [Part 11, Section 149 of the Equalities Act](#) relating to race, disability, and sex, age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment. The duty is to have due regard to the need (in discharging its functions) to:
- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it
66. The PSED must be considered as a relevant factor when considering its decision but does not impose a duty to achieve the outcomes in Section 149. The level of consideration required will vary with the decision including such factors as:
- The importance of the decision and the severity of the impact on the Council's ability to meet its PSED
 - The likelihood of discriminatory effect or that it could eliminate existing discrimination.

Consideration of Human Rights

67. The Council should consider decisions that have a disproportionately adverse impact on a protected characteristic and this impact may be unintentional. In appropriate cases, this may involve an understanding of the practical impact on individuals so affected by the decision. Regard should be had to the effect of mitigation taken to reduce any adverse impact.
68. The above Acts form part of the decision-making process and must be balanced against other relevant factors. The Council is also entitled to take account of other relevant factors in respect of the decision, including financial resources and policy considerations. In appropriate cases, such countervailing factors may justify decisions which have an adverse impact on protected groups.

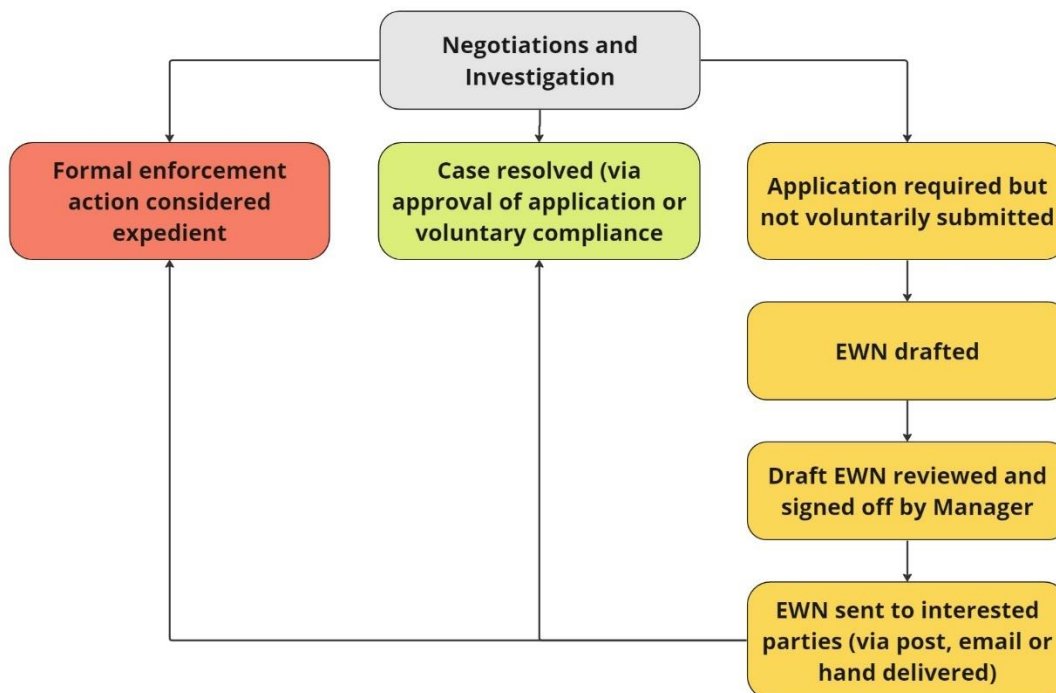
Enforcement Process Flow Chart

69. The following flow chart is intended as an illustration of the enforcement process.



Enforcement Warning Notices Flow Chart

70. The following flow chart is intended as an illustration when the Council might consider the service of an Enforcement Warning Notice.



CONTACTS

Team	Description	Contact
Building Control	The Building Control is to ensure that all building work complies with the Building Regulations. Building Control also investigate buildings and other structures which may be dangerous.	bcadmin@epsom-ewell.gov.uk 01372 303145
Enforcement	The Enforcement Officer is the primary contact for all enforcement matters.	PlanningEnforcement@epsom-ewell.gov.uk
Empty Homes Team	The Empty Homes team help homeowners, potential investors, and neighbours to ensure empty properties are returned to use.	EmptyHomes@epsom-ewell.gov.uk
Environmental Health	The environmental health team is responsible for protecting and improving public health and the environment including food hygiene, health, and safety inspections, responding to complaints of noise nuisance, pollution control and licensing.	https://www.epsom-ewell.gov.uk/environment Forms relating to noise and odour nuisance available here
Highways	The Surrey highways team co-ordinates and monitors public highways in the county.	https://www.surreycc.gov.uk/roads-and-transport
Housing	The housing team covers all housing which is not owned by the Council.	https://www.epsom-ewell.gov.uk/Housing
Trees	The Trees service deals with most tree-related issues	https://www.epsom-ewell.gov.uk/tree-information-and-preservation-orders
Inspector of Ancient Monuments	The Inspector of Ancient Monuments is responsible for the protection and preservation of Ancient Monuments under the Ancient Monuments and Areas Act 1979.	https://historicengland.org.uk/services-skills/our-planning-services/greater-london-archaeology-advisory-service/contact/ Contact jane.sidell@HistoricEngland.org.uk
Partnership for Action Against Wildlife Crime (PAW)	If you witness a suspected wildlife crime in action call 999 immediately and ask for the police. For all other enquires call 101.	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/328652/paw-reportingcrime-leaflet.pdf

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July 2024