

APPENDIX A

Mayor and Cabinet Report–10 April 2013

London Borough of Lewisham

Planning Enforcement Charter - April 2013

1. Introduction

- 1.1 This charter sets out detailed guidance for residents regarding how the Council undertakes the enforcement of breaches of planning control. It is aimed at people who undertake works without permission or consent and those who wish to make complaints about works that have taken place.
- 1.2 No-one should start works on a development which requires planning permission without first obtaining planning permission for it. Furthermore, the Council expects that developments will be built out in accordance with the planning permission and approved plans.
- 1.3 It is an **offence** to carry out unauthorised works to listed buildings, total or substantial demolition of a building in a conservation area, the unauthorised display of advertisements, and unauthorised works to protected trees.

2. When is Enforcement Possible ?

- 2.1 Planning enforcement action can only be taken when something has been done without permission/consent. We may take action against:
 - Unauthorised Operational Development – carrying out of building works, for example, construction of buildings or extensions;
 - Unauthorised Material Changes of Use – changing the use of the building, for example, using a shop as a restaurant;
 - Breaches of Conditions – breaching conditions attached to planning permissions, for example, conditions restricting hours of operation;
 - Unauthorised works to a Listed Building that affect its character as a building of special architectural or historic interest;
 - Unauthorised total or substantial demolition in a Conservation Area;
 - Unauthorised display of advertisements;
 - Poor condition of private land that is adversely affecting the amenity of an area.
- 2.2 It is important to appreciate that planning enforcement action cannot be taken if the works or change of use are not a breach of planning control because they do not require permission/consent, or if it is permitted by planning legislation or is granted permission by a Development Order.
- 2.3 **For example:**
 - Changes of use that fall within the same Use Class;
 - Developments granted planning permission under the GPDO [Permitted Developments] which are, for illustration:
 - small residential extensions;
 - satellite dishes;
 - fences and walls;
 - means of access and hard standings;
 - outbuildings, sheds or greenhouses;
 - loft conversions, dormers or roof lights;
- 2.4 **Examples of issues that may not be planning matters include:**
 - Unauthorised use of the highway, for example, for car repairs or parking contraventions;
 - Dangerous structures / subsidence;

- Internal refurbishment of buildings that are not Listed;
- Party wall, ownership or land-grab disputes;
- Noise or light pollution issues (unrelated to planning consent);
- Pests or vermin.

2.5 Allegations that can be dealt with more efficiently and effectively by other Council departments will be forwarded on to them; even though there may be relevant planning issues involved.

3.0 How can you help?

3.1 The following information will assist you in reporting alleged breaches of planning control and provide information of our processes and procedures we use to investigate and resolve planning enforcement issues.

3.2 How to report alleged breaches of planning control

- Through the Council's Planning web pages - **planningenforcement@lewisham.gov.uk**
- By Telephone – **0208 314 7400**;
- By letter - **Planning Department, London Borough of Lewisham, Laurence House, 1 Catford Road, London. SE6 4RU**;
- In person - **At our Business Centre in Access Point** on the ground floor of Laurence House at the above address.

3.3 Information we require from you when reporting a breach of planning control

Unless you provide the following details we will not investigate the allegation:

- Your full contact details;
- Accurate address, including postcode, of the property to be investigated;
- Detailed information regarding the alleged breach;
- Perceived harm caused.

3.4 **Disclosure of information** - Your personal information will be stored, handled and processed in accordance with the requirements of the Data Protection Act 1998.

4.0 What we will do ?

4.1 Within 5 working days after receiving your allegation the case will be recorded, assigned a priority and allocated to an officer. We will send you an acknowledgement letter/email providing details of the investigating officer and the case reference number

4.2 Every enforcement case is different and therefore the time period for investigating and resolving breaches of planning control differs greatly from case to case. However, the general procedure and approach will tend to remain the same and will normally follow the process outlined at the end of this document.

4.3 We will be unable to regularly inform you of the progress of our investigation due to the volume of our enforcement caseload. However, if you require an

update, please contact the investigating officer especially if there is a significant change in circumstances.

4.4 The process and priority level of investigations is explained below:

Case priorities:

- **1st Priority Cases** - where works are being carried out which will cause irremediable harm, for example, works to a listed building, demolition of a listed building and works to trees with protection orders
- **2nd Priority Cases** - where works or uses are causing a significant and continued harm to amenity, for example, the unauthorised use of a residential property as a business premises, unauthorised conversions of properties to flats, and the unauthorised construction of an extension.
- **3rd Priority Cases** - where works or uses cause harm to the amenity of an area but do not fall into the categories above, for example, installation of shop fronts, unauthorised detached structure and non-compliance with the approved consent.
- **4th Priority Cases** - where there is a breach of planning control but there is little or no immediate harm to amenity or where the harm can be easily remedied for example, the unauthorised installation of satellite dishes and adverts.

4.5 If there are a number of similar cases within an area such as a High Street or Conservation Area, then these may be treated as a greater priority than the individual breach. The priority will be determined according to the collective impact.

4.6 Amenity is defined as where a use, activity or structure cause harm by reason of being significantly visible or by causing harm by reason of either noise, general environmental disturbance or housing conditions.

4.7 A site visit should take place within the following targets:

Priority	Visit target
1 st priority cases	Within 24 hours
2 nd priority cases	Within 5 - 10 working days
3 rd priority cases	Within 10 - 15 working days

4.8 For 4th priority cases, the Council approach at the moment is that it will not investigate the breach and a standard letter will be sent outlining that no action will be taken. Action may be taken against these cases in the future.

5.0 When can formal Enforcement Action be taken ?

5.1 Except in cases where unauthorised works or uses are causing serious harm, formal enforcement action is taken when attempts to amicably resolve the problem have failed. Initially, the Council may give the operator and / or

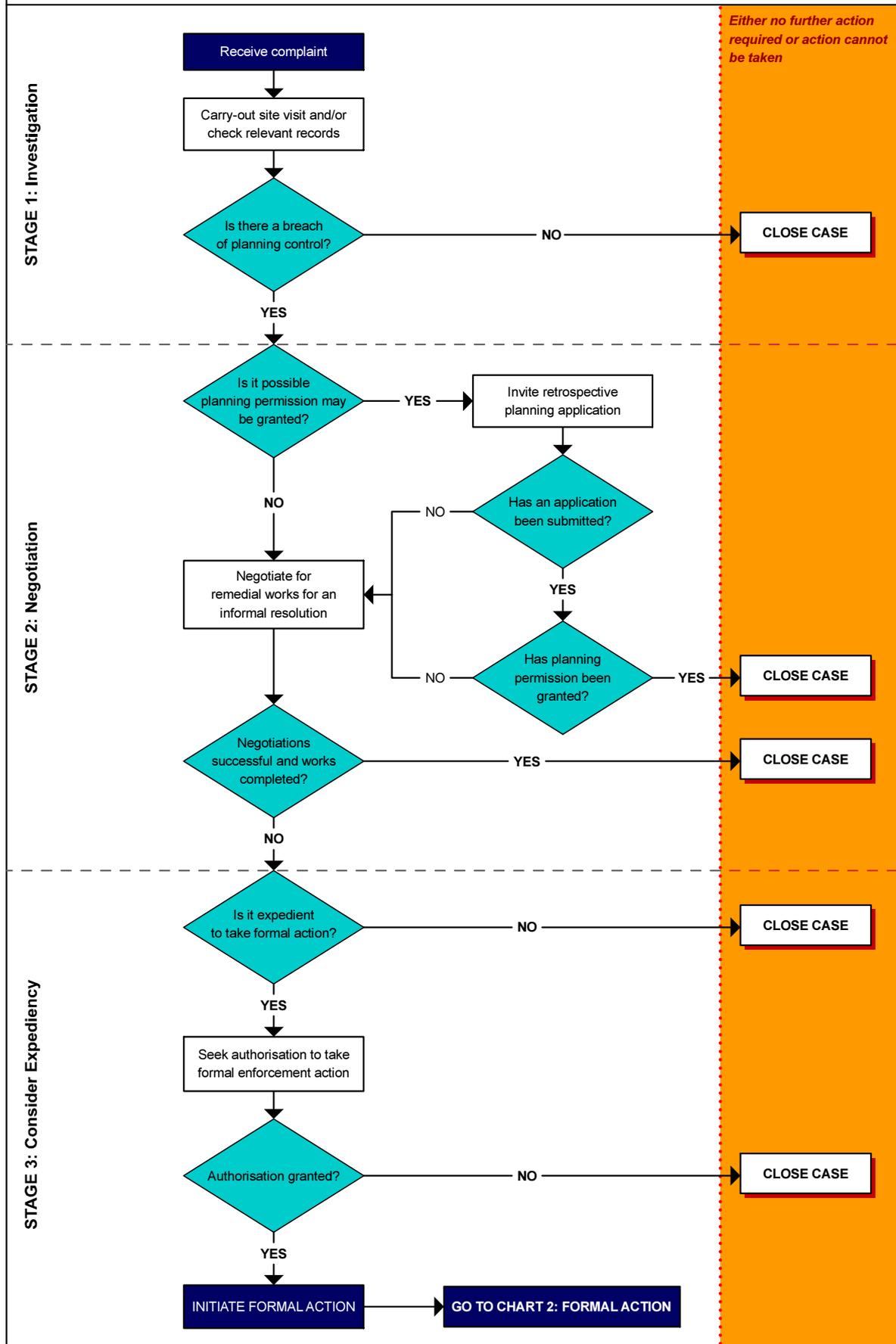
owner a reasonable opportunity to regularise the situation. Where there is significant harm, the Council will look at serving a Temporary Stop Notice.

- 5.2 In assessing harm, the Council will take account of the impact of the site or use in terms of visual amenity, noise and disturbance, parking and other environmental/ strategic objectives. Regard will be had to the sensitivity of adjoining uses and the related impact.
- 5.3 The owner may, if appropriate, regularise a Breach of Planning Control by :
- Submit an application for a Certificate of Lawfulness for an Existing Use or Development);
 - Submit a retrospective planning application (for the retention of the development);
 - Remove the unauthorised development from the site.
- 5.4 Government Guidance states that the Local Planning Authority (LPA) should first attempt to resolve breaches of planning control informally through negotiation with the land owner or developer.
- 5.5 Should a planning application be submitted and fail to gain permission or if no action is taken to remedy the breach, the local planning authority will consider the expedience of taking enforcement action.
- 5.6 If such a notice is issued, the recipient has the right to appeal. The planning appeals process has the effect of putting the requirements of any enforcement notice in abeyance pending the Inspectors decision. Any appeal that is made against the service of an enforcement notice may result in costs being awarded against any party who has displayed unreasonable behaviour.
- 5.7 Failure to comply with an enforcement notice is a criminal offence and may result in prosecution.
- 5.8 If the enforcement system is to retain the public's confidence, warnings and negotiations must not be allowed to become protracted. When an unauthorised development is unacceptable on its planning merits and warning letters to the responsible parties fail to obtain a satisfactory remedy within a reasonable timescale, the Council will not hesitate to initiate additional formal enforcement or prosecution action.

6.0 Closing Enforcement Actions

- 6.1 The enforcement case will be closed when:
- There is as of fact no breach of planning control;
 - It is considered in the circumstances that it is not expedient to take enforcement action;
- 6.2 When an investigation has been resolved, we will normally inform the complainant of the Council's intention to close the case, stating the reasons for doing so.

Enforcement Procedure - Chart 1: Investigation and negotiation



Enforcement Procedure - Chart 2: Formal action and remedying the breach

