Birmingham City Council

# Planning Enforcement Charter - What happens when the planning rules are broken

For a copy of this leaflet in large print, another language or other alternative format, please contact us.
Telephone **Planning Direct**: (0121) 303 1115 Textphone (Minicom): (0121) 303 3992

**This leaflet is for anyone who has, or is considering making a complaint to the Council about a breach of the planning rules, or if someone has complained about you.**

It explains what we can take action on, what you can expect from us if you make a complaint and the timescales involved.

If you have any queries about the process please contact us at:

Planning Management
PO Box 28
Alpha Tower
Suffolk Street Queensway
Birmingham
B1 1TU

Telephone: (0121) 303 1115

Fax: (0121) 303 4838

E-mail: planning.enquiries@birmingham.gov.uk

Website: www.birmingham.gov.uk/planningenforcement

Reception: 9th Floor, Alpha Tower
Monday - Thursday 8:45am - 5.15pm
Friday 8:45am - 4:15pm

## What can I complain about?

Breaches of planning control can include:

- Building an extension, or making alterations to a building without planning permission*.
- An unauthorised change of use of a property, e.g. running a business from a residential property*.
- A condition imposed on a planning permission, not being complied with.
- Work being carried out that is different to what was approved.
- Advertisements erected without permission*.
- Protected trees being removed or lopped without permission.
- Unauthorised works to a listed building.

We can't deal with:

- Boundary/ownership disputes.
- Covenant issues.

These are private issues which a solicitor or the Citizens Advice Bureau can help you with.

* Please note, some extensions, adverts or uses can be carried out without the need for planning permission.

## How can I complain?

You can submit your complaint online, write to us, visit, phone or e-mail. All the contact details are on the front of this leaflet.

We will need to know:

- Your name, address and contact details.
- The address where the breach is taking place.
- What the breach is.
- How it affects you.

## Will my details be kept confidential?

Under the Data Protection Act , the name and address of the person making the complaint, or any other contact details, will not be disclosed. The only exception to this is when we are taking formal action and you have been asked to collect evidence to support your complaint. In these cases you may be asked to give that evidence at a hearing, but before then you will be asked if you are prepared to do that.

Most complaints are dealt with without the need for formal action, so in most cases confidentiality can be maintained.

Under the Freedom of Information Act 2000, the Council have to make available to the public information about where there has been a complaint and what the complaint is about. Formal notices that are served, along with a list of all those people served with that notice, are also public documents.

We do check anonymous complaints, but due to high volumes of complaints they take a lower priority than others.

## What happens to my complaint?

We can only take action if there has been a breach of planning control. We will therefore check this first by visiting the property. If the complaint involves a building, we can assess if there has been a breach quite quickly. If the complaint involves the use of a property, we may have to monitor it for a few weeks to make this assessment. We may also ask for your help to collect evidence of the unauthorised use.

If there is a breach we then have to consider if it would be likely to get planning permission. If we feel it might, we will invite an application, on which you would be consulted. Letters received

on planning applications are available to the public, or if the application is being decided by the Planning Committee, you can have your say in person.

If an application is not submitted, the Council will then have to consider if it is in the public interest to take formal action. The Council will not automatically take action just because an application is not submitted.

If we do not feel planning permission would be granted and the breach is significant, we will take formal action.

At each stage we will endeavour to keep you informed, by phone or in writing.

## What if a complaint has been made about me?

We recognise that some breaches of the planning rules are genuine mistakes, where people don't know they need permission. We also recognise some people deliberately play the system.

You may be given the opportunity to apply for retrospective planning permission and we will guide you as to whether we feel you might get it. It is beneficial to apply as any unauthorised extensions, for example, could cause problems if you sell your home in the future.

If you have breached planning control and we don't feel you would get permission you will be asked to put the situation right, e.g. by stopping the use or pulling down or reducing the size of an unauthorised building.

If you do nothing to put the situation right, then we will consider taking formal action.

At each stage we will endeavour to keep you informed, by phone or in writing.

## What is formal action?

We will start formal action when negotiations to resolve a complaint have failed. It means we will serve legal notices requiring the breach of planning control to cease.

If the legal notices are not complied with, we will take court action which could result in a significant fine. In some cases we may consider taking direct action, e.g. demolishing an unauthorised building and then reclaim the costs. In extreme cases we can consider serving an injunction. Failure to comply with that could lead to a prison sentence. In most cases there is a right of appeal against the legal notices that are served by the Council.

## How long will this take?

We will acknowledge your complaint by letter within 3 working days of receiving the complaint. We will visit the site (in some cases more than once to gain access or speak to the relevant people) and we will then write to you within a month of the acknowledgement letter, to tell you the outcome of the complaint, or update you on what we have done so far.

Beyond this, timescales will vary depending on the need for further evidence. In any event, however, we will endeavour to contact you with monthly updates.

If formal action is necessary, due to the complexities of planning law, it can take several months, and in complex cases years, to satisfactorily resolve problems.

More detailed guidance is provided on all these aspects on our website:
www.birmingham.gov.uk/planningenforcement

## If I'm not happy with the outcome?

If you feel we have not dealt with this matter correctly, there is a Corporate Complaints procedure that investigates complaints about our service. Please contact our Customer Service Co-ordinator, Planning Management (contact details on the front page) or visit the website for Planning Management: www.birmingham.gov.uk/yourviews

If you are still not satisfied, you can then contact the Local Government Ombudsman: (0845) 602 1983.

## Other useful contacts

(non-planning related)

Highway Information
- including street lighting and road and footpath faults
(0121) 303 6644

Dangerous Structures, checks against Building Regulations and Site Safety
(0121) 675 7006

Pollution and Pest Control
- Public Health
(0121) 303 6007

Entertainment, Betting, Taxi Licensing etc - Licensing Team
(0121) 303 8222

RICS Dispute Resolution Service
(0870) 333 1600

Citizens Advice Bureaux
(0121) 248 4950

Planning Aid
(0121) 766 8044

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