Planning Enforcement
Customer Service Charter
Our Commitment to Service

Southend’s Development Control service is committed to providing high quality services for all its users within the resources available. Development Control is a complex process governed by a comprehensive legal framework as well as national, regional and local policies. This Charter sets out what you can expect from the enforcement service and describes the standards we aim to achieve.

In meeting these aims we will act in a courteous and professional manner at all times. We will demonstrate commitment to the Council’s values by ensuring good customer service is at the heart of everything we do. We will endeavour to provide an integrated service, be open, honest and transparent and listen to other’s views, support, trust and develop each other and aspire for excellence in our work. This in turn will allow us to deliver the corporate priorities of creating a safe, clean, healthy, prosperous and excellent Southend.

When do we take enforcement action?

Southend Borough Council is committed to providing an efficient and effective enforcement service. In considering whether to initiate enforcement action against unauthorised development the Council will assess whether the breach of planning control has an unacceptable effect on public amenity or causes harm to land or buildings.

Planning legislation provides local planning authorities with a range of measures for dealing with breaches of planning control. Guidance from Central Government in Planning Policy Guidance 18: Enforcement Planning Control advises that local planning authorities may take enforcement action when it is considered necessary in the public interest. In considering whether to take enforcement action, local planning authorities should consider:

“whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.”

Whether or not the Council takes enforcement action is discretionary. In exercising that discretion the Council will have regard to the following:

- Is planning permission required?
- Does planning permission exist?
- How long has the building or use been in existence?
- Is the unauthorised use or activity causing harm with regard to development plan policies or any other material consideration?

Not all unauthorised development is detrimental and that is why planning applications are sometimes invited instead of initiating formal enforcement action. It is vital that everyone involved in the planning process is clear as to the approach which the Council will undertake in dealing with breaches of planning control.
Carrying out development without planning permission or failing to comply with conditions is not a criminal offence. However, other breaches such as unauthorised works to a listed building or the unauthorised display of certain types of advertisements do carry criminal liability.

In taking enforcement action or bringing a prosecution the Council will have regard to the “harm” that is being caused to interests of acknowledged planning importance. In some situations works or developments are done in ignorance, rather than intentionally, and the person responsible will usually first be given an opportunity to remedy the situation.

Planning enforcement operates to protect the public interest. Harm can result from breaches of planning control in terms of the effect on visual or residential amenity, on highway safety, on the amenity of the public in general, the occupiers and users of surrounding land and buildings or the environment in general. There may be noise nuisance, loss of daylight or privacy for example to neighbouring properties.

When a breach is identified the law requires the Council to consider whether it is “expedient” to take enforcement action. The Council follows tests set in legislation, the policies in the development plan and current government guidance. Enforcement action is not taken simply because development or works have commenced without the necessary approval; each case is individually assessed to determine what harm is being caused. The assessment of harm does not include private interests, such as loss of value to property, competition, loss of view, trespass or breach of a covenant.

Planning enforcement action taken by the Council following a breach is a serious procedure. Ultimately failure to comply with enforcement action is a criminal offence that potentially could result in prosecution. However, the Council aims to negotiate acceptable outcomes were possible, avoiding the need for formal action. When considering enforcement action it is necessary to strike a balance between the rights of residents and businesses to use or alter their property, whilst safeguarding the amenity of their neighbours and protecting the wider environment within the planning framework.

Aims of the Planning Enforcement Service

One of the Council’s values is to provide efficient, speedy and effective service and to treat all of our customers with respect in all of our dealings by providing fair, open and courteous service. In order to give a good public service it is vital for the Council to give its customers guidance on the enforcement service that the Council will aim to deliver.

- Establishes priorities;
- Makes service commitments and enables them to be monitored;
Communicates with those making allegations about breaches of planning controls and other members of the public;
To take appropriate action when expedient;
To carry out duties in a fair, equitable and consistent manner whilst providing a courteous and efficient service.

Making an Enforcement Allegation
Anyone can make an allegation if they are concerned that there has been a breach of planning or listed building control. The Council does not normally accept anonymous allegations, and will usually ask for allegations to be put in writing. If there is a good reason why this can’t be done the informant will be advised to contact their local Councillor who can decide to act on their behalf. The informant’s details will be kept confidential, whenever possible. The alleged contravener is not told who has made an allegation, although they sometimes make assumptions.

The identity of someone contacting the Council about a possible breach of planning control is treated as confidential and the general public will not have access to names and address. However, it may be necessary to reveal the identity of an informant to support the Council’s case if formal legal action is taken and there is an appeal against the action. In these cases the Council will give the informant prior notification before the case gets to this stage.

This information relating to the identity of these individuals is therefore considered partially exempt from publication under the Freedom of Information Act

It helps Investigating Officers if as much information as possible can be provided:

- About the allegation;
- The name and address of the alleged contravener;
- The location of the site;
- The date, where possible, that the problem has occurred;
- An explanation of the harm that it is causing.

Informants may be very concerned and angry about a breach of planning or listed building control, but this anger should not be vented on Council staff. Their job is to attempt to resolve problems in the public interest. They operate most effectively when assisted in their investigations.

Prioritisation of Enforcement Allegations
It is important to progress enforcement cases quickly and efficiently. The Council will seek to ensure that all reported breaches of planning control are resolved as quickly as possible. However to enable the most efficient use of Council resources the following priorities are followed when investigating and resolving breaches of planning control.

Category A – High Priority
Alleged breaches felt to require urgent action:
- Any unauthorised development, which causes immediate, irreparable and serious harm to the neighbourhood;
- Any non-compliance with a condition or legal agreement, which is causing immediate harm to the environment and public safety.
- Unauthorised works to a irreplaceable assets such as works to a listed building or a tree protected by a Tree Preservation Order;
- Other breaches where any delay may allow the situation to deteriorate significantly or make it more difficult to remedy.

Category B – Medium Priority

The following types of breaches will be treated as medium priority, providing they are not so severe as to fall into category A:
- Breaches contrary to policies in the development plan
- Breaches that cause a disturbance to neighbours and the character of the area;
- Unauthorised display of advertisements where this is likely to set a precedent leading to the display of more unauthorised advertisements;
- Unauthorised and inappropriate extensions or alterations to or that affects residential properties.
- Breaches of conditions attached to planning permissions that are harmful to amenity or likely to set an undesirable precedent.

Category C – Low Priority

The following will be treated as low priority, provided that the results of the breach are not so serious as to fall into A or B:
- Minor breaches of planning control where there is no significant harm to the Council’s planning policy or objectives;
- Other breaches of conditions attached to planning permissions.
- Unauthorised display of advertisements;
- Temporary breaches, which are likely to resolve themselves;
- A matter where an initial assessment indicates it may be ‘permitted development’ or recommended for approval if a regularising application were submitted.
- Any other alleged breaches of planning control.

Timescales for Dealing with Allegations

Planning enforcement is a very complex area requiring thorough investigation of the alleged breach of control, the collection of evidence, the consideration of other issues such as case law, the history of the breach and the service of an enforcement notice. In
allocating resources, it must be recognised that planning enforcement activity is often very time consuming. Thorough investigations of the relevant planning history and methodical evaluation of the facts are the foundation of effective action.

Because of the need for careful investigation and the legal processes involved, enforcement investigations can take a long time to resolve. Enforcement officers will work to the following targets from when your information is received in the office:

- Within 3 working days the informant will be sent an acknowledgement letter and Enforcement leaflet. This will include the name and contact details of the case officer and an indication when the Council intend to respond following the breach. It may be for operational reasons that the case officer changes and if this occurs you will be informed of the change in writing.
- A site visit will be undertaken according to the case priority:
  - Category A – within 5 working days
  - Category B – within 15 working days
  - Category C – within 20 working days
- An initial report setting out the finding from the site visit will be prepared within 5 working days of the initial site visit.
- A decision on an appropriate course of action will be taken within 10 working days from the site visit.
- All persons subject of the inquiry will be informed of the course of action to be taken within 10 working days from the initial site visit.
- Any person who made an inquiry about the possible breach will be informed in writing of the course of action to be taken within 10 working days from the initial site visit.
- The council will aim to keep all inquirers informed of progress in dealing with individual cases and will ensure that appropriate updates are provided.

If there are issues in meeting the above deadlines, due to limitation of resources or due to an exceptionally high level of work the informant will be kept informed of this and will be provided with a new time table.

Types of Enforcement Action
If a negotiated approach fails or is not feasible, or a retrospective planning application has not been submitted it may then be necessary to pursue enforcement action. If it is considered, by the Council, that it is expedient to take formal action it will serve one of the following types of notice, depending on the circumstances:

- Planning Contravention Notice
- Temporary Stop Notice
- Enforcement Notice
- Stop Notice
- Breach of Condition Notice
When an enforcement notice is served the owner or occupier of the land may appeal in writing to the Secretary of State before a specified date. If an appeal is lodged the notice is held in abeyance, possibly for many months, until the appeal is determined.

On appeal a notice may be quashed and if an appeal was made on planning grounds, a planning permission is granted. Alternatively, it may be upheld as it stands or its terms may be amended by the Inspector considering the appeal. Despite the potentially lengthy process we will endeavour to keep you informed and let you know the outcome.

If the appeal is unsuccessful or no appeal is made the period for complying with the notice begins. Failure to comply with the requirements of the notice within the specified period is a criminal offence and the Council will consider bringing a prosecution for breach of the notice. It may also be that if the breach is so bad or continuous that the Council will seek an Injunction from the courts.

Decisions on whether to take enforcement action are normally made by the Council’s Development Control Committee following consideration of a report on the alleged breach of planning control.

Complaints about the Enforcement Service

All written complaints about the way in which development control matters have been handled will be dealt with under the Council’s Complaints Procedure, details of which can be found on the Council’s website. The procedure is there to deal with complaints about the satisfaction with the service provided. It is not there to review the nature of the decision made on an application. All written complaints will be acknowledged and fully investigated by the Group Manager (stage 1). If you are not satisfied with the response there is a second stage where your complaint will be investigated by the Corporate Director or Head of Service. Finally there is a right of appeal to the Chief Executive and Leader of the Council (stage 3).

If the complainant remains dissatisfied about the way in which the Council has handled the matter, the procedures for making a complaint to the Local Government Ombudsman and the terms of his jurisdiction are explained on the Council’s website or are available through the contact centre at the Civic Centre.

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Nëse dëshironi një kopje të kësaj fletushke në gjuhën tuaj amtare, ose nëse doni të në kontaktoni, ju lutemi telefononi në numrin e poshtë-shënuar. Ne do të përdorim një përkrthyes për mes telefonit të ndihmojmë me kërkesën tuaj.

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Punjabi
ਹਿੰਦੀ ਭਾਸ਼ਾ ਦੇ ਨਹਿ ਬੇਲਾ, ਓਜੀਕਿਸ਼ੇਥ ਦੇ ਤੰਨੀ ਫ਼ਟ਼ਰੇ ਵਿੱਚ ਵੀ ਢੁੱਟ ਹੋ ਤਹਾਂ ਹੱਲ ਹੁੰਦਾ ਹੈ। ਹਿੰ ਦੀ ਸਾਹਿਤ ਦੇ ਵਿਚ ਵਿਚ ਜਾਂ ਜਾਂ ਬਾਕੀ ਦੇ ਸੰਨੱਤ ਵੀ ਹੁੰਦਾ ਹੈ।

Shona
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Chinese
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Urdu

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Bengali

অন্য কোন ভাষা, আকারে এই ম্যাগাজিনের কপির জন্য, অথবা অতিরিক্ত কপি অর্ডার করার জন্য অনুমোদন করে যে নম্বরে ফোন করবেন সে নম্বর নিচে উল্লেখ করা হলো।