

# Planning Enforcement Protocol

## Planning Policy Decisions Team (PPDT) and Growth Boroughs

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### Introduction

This protocol outlines the objectives, principles and programme for the transition of PPDT development management powers to the Borough Local Planning Authorities, in so far as they relate to planning enforcement, and concerns such matters up to August 2024. A 'Last 3 Months Protocol' will be agreed between PPDT and the Boroughs in 2024 covering, amongst other things, enforcement matters.

The aim is to ensure a smooth transfer of responsibilities and maintain effective development management processes for each of the Borough areas with respect to planning enforcement.

The numbers of enforcement cases PPDT have received over the past full 5 years (plus 2023 to mid-May) is set out below. Compared to the boroughs case numbers are extremely low. See table 1.

Over the past 5 years activity around formal enforcement proceedings has been minimal. An enforcement notice was served on the occupiers of 616 Wick Lane (LBTH) in Nov 2019 to remove caravans/C3 use and to restore the site; followed by successful prosecution.

The main issues that come to LLDC from residents (or ward councillors, on their behalf – mainly in LBTH) for consideration under planning enforcement are emissions arising from ground disturbance (contaminated land) and noise/disturbance and traffic arising from demolition/construction; all of which are controlled through planning condition. Also, noise from existing uses can be an issue in Hackney Wick Fish Island as more new residents move into the area.

Boroughs are already involved in LLDC enforcement as necessary – usually the EHO/EPD, or Highways teams.

As it stands (early June 2023) there are 35 live planning enforcement cases, though work is ongoing to actively reduce numbers; and a number are currently under consideration (c.8 are expected to be soon closed).

2018	2019	2020	2021	2022	2023 (to mid-May)
30	41	17	14	15	11

*Table 1: number of enforcement cases received by year (all types)*

### Task

PPDT prepared a draft protocol circulated to the Boroughs in advance of discussion at the DM Transition Working Group on 7 June 2023, where agreement was reached on the way

forward. PPDT were open to receive any further comment on the protocol until June 21, 2023, extended until 17 July 2023. The protocol was formally agreed at the July 27 meeting, and will be effective from August 2023.

### **Protocol Objectives**

- a. Provide clarity and certainty to all stakeholders that arrangements are in place to ensure 'business as usual' with regard to planning enforcement up to August 2024, in the context of the upcoming transfer of powers
- b. Agree a method for Borough involvement in enforcement cases
- c. Enable Boroughs to undertake, where required, continuing successful enforcement on cases inherited from PPDT
- d. Enhance Borough decision-making
- e. Streamline planning procedures and improve efficiency
- f. Strengthen accountability and transparency

### **Principles and Process**

- PPDT retains control over enforcement matters
- Commitment for PPDT and Boroughs to resource and to involvement, communication, effective and timely reviews and feedback, to ensure working together effectively in delivering Planning services
- Where PPDT considers it may be appropriate to serve a planning or listed building enforcement notice, breach of condition notice or stop notice, they will notify the Borough and take their view into account on the expediency of such action
- PPDT will share a list of enforcement cases monthly, and discuss the cases at regular catch-up meetings with the Boroughs, as necessary
- Boroughs may choose to become involved in a case of importance to them, identified from the list
- For any fundamental differences on approach identified towards any enforcement cases, a meeting between PPDT, the Borough and their legal representatives (if required), shall be held and an agreed resolution reached
- Commitment to resource and to reviews to ensure working effectively
- Offer to fund retention of Pinsents Masons' legal service for a period of up to 3 months post handback of powers to assist the Boroughs, albeit TfL legal are PPDT's legal advisors for enforcement purposes; also Arup (environmentals) and Jacobs (transport)
- Boroughs use of LLDC consultants will need to be organised via direct award by the boroughs, with boroughs managing the contracts; Boroughs to send funding requests
- PPDT to resolve/close as many cases as practicable, with minimum handover of live enforcement cases

### **Programme**

- PPDT will share the list of on-hand enforcement cases monthly
- For cases the borough expresses an interest in, written responses to the breacher will be prepared by the Lead Authority (PPDT) and drafts and final versions shared with the Borough for joint agreement
- Joint Publicity for handover of powers will include reference to planning enforcement
- The Statutory Instrument (SI) for the transfer of powers confirms that costs received post-transfer of powers will be picked up by the Boroughs, and costs granted by the

courts, for example, following successful prosecution post-transfer, will be granted to the Boroughs. The scope of the SI has been agreed with DLUHC in April 2023. This is also consistent with the LLDC Planning Functions Order and the transitional arrangements set out in that SI

**Conclusion:**

This protocol provides a process for Borough involvement with respect to planning enforcement until August 2024, towards a smooth transition/handback of PPDT's development management powers. By following this protocol, clarity and certainty can be provided to all stakeholders that effective arrangements are in place to provide advice and to make decisions.

**Agreement**

Borough agreement on the protocol (dated xxxxx)