

Draft Local Enforcement Plan

Planning Enforcement
in Westminster



2024



City of Westminster

Central Government's National Planning Policy Framework states:



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.



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Introduction

The Local Enforcement Plan (LEP) sets out Westminster City Council’s approach to planning enforcement for all those who interact with the service, whether that be people undertaking development or people affected by development.

By implementing and following the processes and procedures outlined in the LEP, residents, communities, businesses and visitors will benefit from a more inclusive city, a better quality of life and a more sustainable, safe and high-quality built environment. The LEP is compliant with the Westminster City Plan 2019-2040 and upholds the council’s objectives for a Fairer Westminster.



A Fairer Westminster is our vision for building a city that supports and celebrates its communities. It’s our chance to work with you to create a more inclusive Westminster, where our residents are at the heart of our decision-making. Fairer Westminster highlights five pillars:

Fairer Communities

Fairer Economy

Fairer Council

Fairer Housing

Fairer Environment

By working directly with our residents, communities, and businesses, we can build a more inclusive city that celebrates its diverse communities and where residents, workers and visitors from all backgrounds will feel welcome and safe. Planning enforcement has a key role to play in ensuring the delivery of the objectives of these five pillars.

The purpose of planning enforcement

The purpose of planning enforcement is to ensure fairness within the planning system, by effectively tackling unauthorised development.

Without effective planning enforcement, there would be less incentive to obtain or correctly implement planning permissions (See Useful Terms, pages 24-25), undermining the integrity of the planning system, and the objectives of our development plan (See Useful Terms, pages 24-25), negatively impacting Westminster’s communities, residents and businesses. Planning enforcement seeks to strike a balance between the freedom of owners to use or alter their properties as they wish, and the need to prevent harmful impacts on the locality, whilst preserving or enhancing historic buildings and areas.

The relevant enforcement legislation is complex and is qualified by High Court judgements and appeal decisions made by the Secretary of State. The National Planning Policy Framework (NPPF) provides guidance that must be given due consideration in each case.

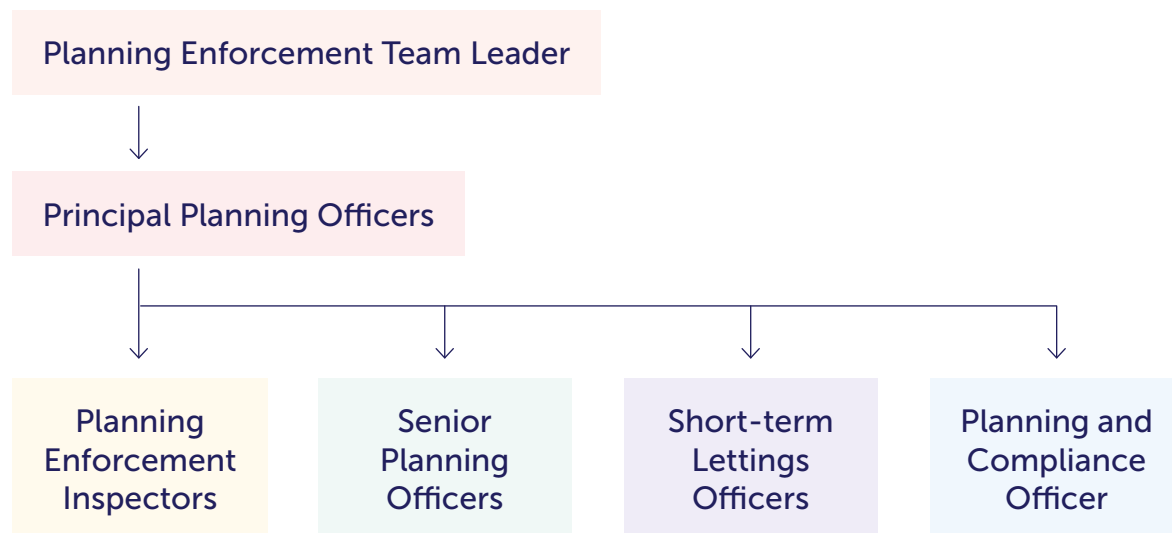
There is a need to ensure that despite this inherent complexity, when formal enforcement action is warranted, it is

taken as quickly as possible, and its effectiveness is not reduced by lengthy negotiations.

Our aim is to ensure that, through appropriate enforcement and monitoring, development in Westminster fulfils the objectives that our adopted planning policies and Fairer Westminster vision seek to achieve.



The planning enforcement team



The Planning Enforcement Team is within Westminster City Council's Regeneration, Economy and Planning Directorate. We are a largely reactive team whose primary duty is to investigate and resolve reports of unauthorised development ([See Useful Terms, pages 24-25](#)) taking place within the City. The team is also proactive, monitoring compliance with planning conditions ([See Useful Terms, pages 24-25](#)) and undertaking area improvement projects.



Breaches of planning control and planning offences

Listed buildings

Westminster has over 11,000 listed buildings. The Planning Enforcement Team has a duty to ensure that the special architectural and historic interest of listed buildings is protected.

A breach of listed building control means:

- Carrying out any (internal or external) works of demolition, alteration or extension of a listed building, which affect the building's special architectural or historic interest without consent

It is an offence to carry out or require someone else to carry out unauthorised works to a listed building.

Other development

A breach of planning control consists of one or more of the following types of development occurring without permission:

- carrying out works which require planning permission
- failing to comply with any condition of a planning permission
- implementing a change of use ([See Useful Terms, pages 24-25](#)) which requires planning permission

Advertisements

There are three types of advertisements ([See Useful Terms, pages 24-25](#)) under planning legislation:

- Advertisements that are not within the council's control
- Advertisements that benefit from 'deemed consent' ([See Useful Terms, pages 24-25](#)), which means that they automatically benefit from consent, subject to conditions and limitations
- Advertisements that require 'express advertisement consent' ([See Useful Terms, pages 24-25](#)) from the council

Further information about the three types of advertisements can be found

in the Planning Practice Guidance at www.gov.uk/guidance/advertisements#definition-of-an-advertisement



It is an offence to display an advertisement that requires express advertisement consent without first obtaining consent.

The council may also pursue action against advertisements that benefit from deemed consent if we consider they are causing substantial injury to the amenity ([See Useful Terms, pages 24-25](#)) of the locality (e.g. visual harm) or are considered a danger to the public.

Short-term letting

A ‘short-term let’ is when a property is let for anything less than 90 consecutive nights. For example, renting a property for a holiday or business stay for one night or two weeks would be classed as a short-term let.

Planning permission is not required if:

- a property will be used for short-term letting for no more than 90 nights in a calendar year (1st January to 31st December) and
- if council tax is paid by the person providing the accommodation

In Westminster, leaseholders in Council owned buildings are not permitted to use their properties for short-term letting at any time, as per the terms of their leases.



Further information can be found at www.westminster.gov.uk/housing/leaseholders/leaseholders-property/short-letting.

In accordance with tenancy agreements, tenants in Council-owned properties (e.g. social rented housing) are not permitted to sublet their homes for any purpose, including for short-term letting.

Significant changes are proposed to the legislation controlling short-term letting in the coming months, but these changes are not yet in place. The Planning Enforcement Team will produce separate guidance on short-term letting when the changes become effective.

Trees

Without consent from the council, it is an offence to damage, remove or carry out tree works to:

- a tree protected by a Tree Preservation Order (See Useful Terms, pages 24-25) or
- a tree within a conservation area (See Useful Terms, pages 24-25) with a trunk diameter of 75mm or more, measured at a height of 1.5 metres from ground level

Time limits

The Levelling-Up and Regeneration Act 2023 introduced changes which affect the time limits within which enforcement action may be taken by local planning authorities (See Useful Terms, pages 24-25), against works (operational development) and material changes of use.

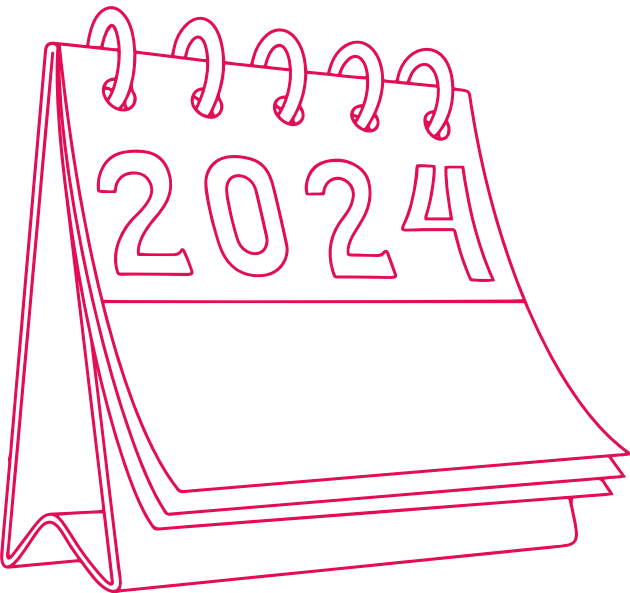
In most cases, no enforcement action may be taken after the end of the following periods:

- 10 years beginning with the date of substantial completion of works (operational development) where substantial completion took place on or after 25th April 2024
- 10 years beginning with the date of an unauthorised change of use to a single dwellinghouse, where the change of use commenced on or after 25th April 2024
- 4 years beginning with the date of substantial completion of works (operational development) where substantial completion took place before 25th April 2024
- 4 years beginning with the date of an unauthorised change of use to a single dwellinghouse, where the change of use commenced before 25th April 2024
- 10 years beginning with the date of any other breach of planning control, including other changes of use and breaches of planning conditions

There is no time limit for taking enforcement action in relation to works to listed buildings.

No enforcement action may be taken by the council in relation to alterations to listed properties where:

- Works (internal and external) were completed before the date of listing of the property



Planning enforcement priorities

The Planning Enforcement Team investigate all reported breaches of planning control.

Our top priorities are:



Preventing the loss of permanent residential accommodation

in order to protect Westminster’s housing stock (e.g. use for unauthorised short-term letting).



Preventing harm to residential amenity

in order to protect and improve the quality of life of Westminster’s residents and communities (e.g. noise disturbance from unauthorised plant equipment or an unauthorised use).



Conserving heritage assets

in order to make the most of Westminster’s unique heritage and historic environment (e.g. heritage assets such as listed buildings and conservation areas).



Preventing environmental harm

in order to protect biodiversity, improve Westminster’s environment, and meet sustainability and climate objectives (e.g. loss of trees, monitoring and enforcing sustainability and waste management conditions).

All breaches will be prioritised based on the level of harm caused, as detailed below:

SIGNIFICANT HARM

- Demolition and alterations to a listed building
- Unauthorised short-term letting (where planning permission is required)
- Development causing amenity harm (e.g. air conditioning units causing noise, pavement uses causing obstruction)
- Development causing environmental harm (including felling of protected trees)
- Breaches of planning conditions that impact residential amenity and/or environmental quality
- Advertisements causing a danger to public safety, or causing harm to a listed building or heritage asset

MEDIUM HARM

- Works causing harm to a conservation area or the setting of a listed building
- Changes of use causing harm to the character or function of the Central Activities Zone (See [Useful Terms, pages 24-25](#)), local town centre or high street
- Advertisements causing harm to a conservation area or the setting of a listed building
- Breaches of planning conditions that do not impact residential amenity and/or environmental quality
- Other works to protected trees
- Untidy land and buildings

LOW HARM

- Other advertisements
- Works that do not affect the character and appearance of a conservation area or the setting of a listed building
- Minor alterations (e.g. installation of CCTV, satellite dishes, alarm boxes)
- Pavement uses that have limited amenity impact on communities

What we can investigate

- Works to listed buildings (both internal and external)
- External works to non-listed buildings
- Installation of plant equipment, including air-conditioning units and ducts
- Display of advertisements
- Demolition in a conservation area
- Change of use of buildings and/or land, including short-term letting
- Non-compliance with conditions attached to permissions
- Untidy land or poor condition of buildings
- Works to trees in a conservation area or trees protected by a Tree Preservation Order

The Planning Enforcement Team also undertake:

- Proactive projects such as area-wide surveys to deal with specific planning issues
- Compliance checks on planning conditions
- Collaborative cross-department projects tackling multi-disciplinary issues



What we can't investigate

- Internal works to a non-listed building, unless they relate to a material change of use
- Works or land uses that are permitted development **(See Useful Terms, pages 24-25)**
- Changes of use within the same use class
- Land ownership disputes, trespass issues, party wall agreements or covenant infringements
- Works to pipes, sewers or highways carried out by the council or road network, telecommunications and energy providers, that do not constitute development or that benefit from permitted development rights
- Anti-social behaviour
- Dangerous structures or other health and safety issues on a site
- Parking issues unrelated to planning conditions
- Tables and Chairs on the public highway:

The use of the public highway

(pavement) for tables and chairs previously required planning permission. The Deregulation Act 2020 introduced a new licensing regime through the introduction of a Pavement Licence.

Where a Pavement Licence is obtained, planning permission is now deemed to be granted for tables and chairs.

A Pavement Licence should be obtained from the council's Licensing Team. Complaints regarding tables and chairs on the public highway should be directed to Licensing:



[westminster.gov.uk/
licensing/contact-
licensing-team](https://westminster.gov.uk/licensing/contact-licensing-team)



[westminster.gov.uk/
report-it-1/illegal-street-
trading-and-advertising](https://westminster.gov.uk/report-it-1/illegal-street-trading-and-advertising)

Examples of enforcement action taken

Action taken to require the complete **brick-by-brick re-build** of the Carlton Tavern Public House in Maida Vale, a historic building demolished without consent.

Both the interior and the exterior were required to be rebuilt to match the materials and detailing of the pub prior to demolition.



Action taken to remove unauthorised advertising and restore the removed shopfront, as part of an Oxford Street improvement project.



Action taken to resolve the **poor condition** of a building in a conservation area.

Action taken in relation to unauthorised stripping out of a listed building.



Action taken in relation to an unauthorised extract duct and plant room installed over a lightwell.

Reporting a breach of planning control

You can report a breach using the online 'Report It' form at the following link: www.westminster.gov.uk/report-planning-breach

Planning enforcement queries can be directed to:



planningenforcementteam@westminster.gov.uk



Planning Enforcement Team
Westminster City Council
PO Box 732
Redhill RH1 9FL



020 7641 6000 (Westminster City Council Call Centre)

To contact us using the British Sign Language service click on the following link:
www.westminster.gov.uk/bsl-interpreter



What to include in your report

We value the information we receive from members of the public and residents' groups concerning possible breaches of planning control.

When reporting a potential breach, please supply as much information as possible about the current and previous situation, including:

- Your name and contact details (which will remain confidential)
- The exact address where the alleged breach is taking place
- The nature of the alleged breach
- When the alleged breach started
- Details of how the breach is impacting/affecting you
- The contact details of owners or other persons responsible, if known
- Photographs, where possible

What we will do

Acknowledgment & Site Inspections

If you have provided contact details, we will send you an acknowledgement letter with the name and contact number of the Planning Enforcement Inspector assigned to the case.

The Inspector will attempt to visit the site within five working days (or the same day/following day for listed buildings) to obtain detailed factual information and photographs of the alleged breach of planning control.

Assessment

If a breach has occurred, the investigation will be assigned to a Senior Planning Officer, and at this stage, we will write to you again, providing the contact details of the officer. We will also write to you if it is determined that there has not been a breach of planning control, explaining the reasons for this decision.

How long is the process likely to take?

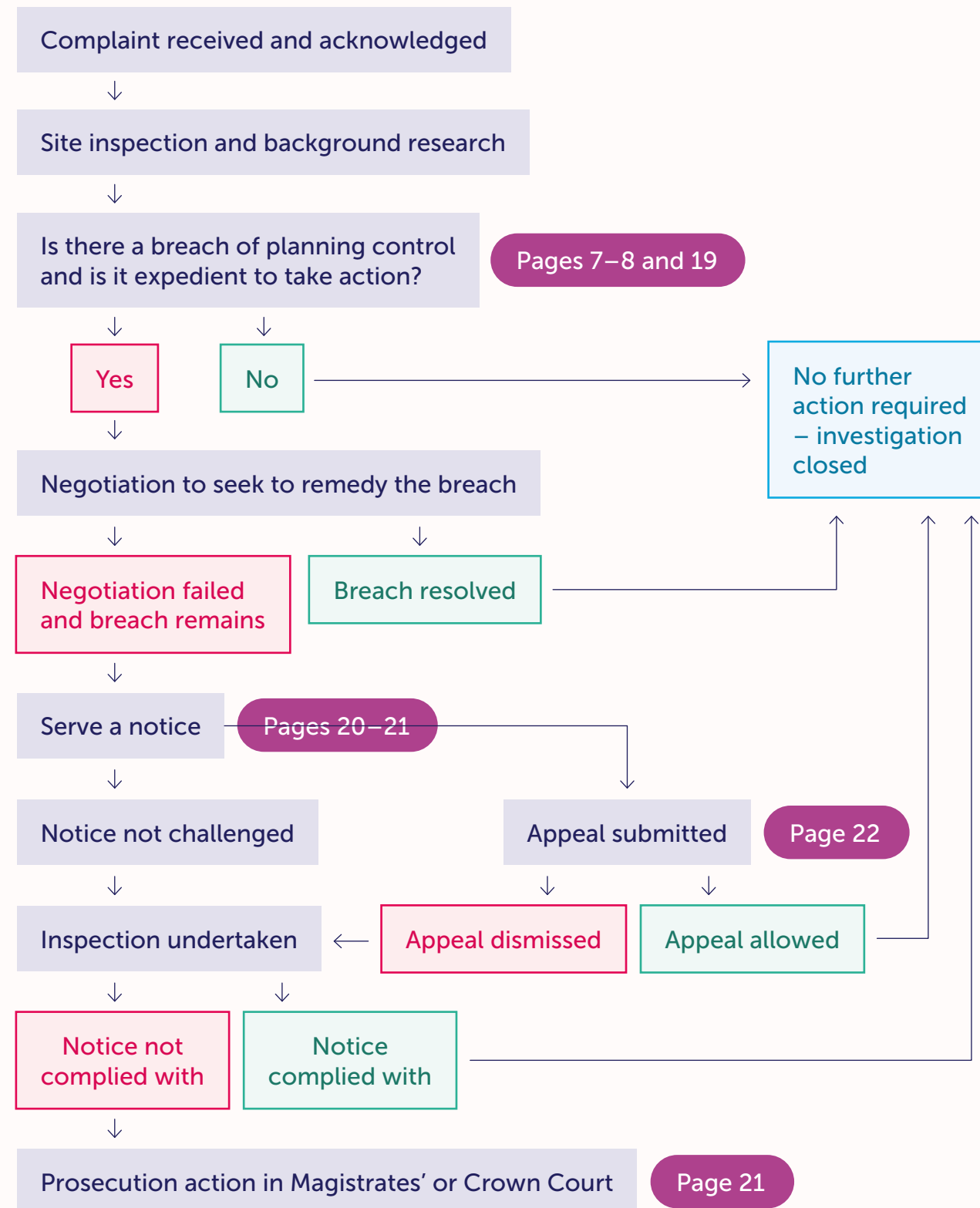
Dealing with breaches of planning control can be a lengthy process and the time taken to resolve breaches can vary considerably. This is because sometimes a breach of planning control is resolved quickly, following warning letters being issued, whilst in other cases, the breach may not be resolved without formal enforcement action being necessary.

When formal action is taken, the person against whom the action is taken may choose to appeal. Appeals to the Planning Inspectorate or to the courts can take many months.

How will the enforcement investigation progress?

The following flowchart provides a guide to how a typical planning enforcement investigation may proceed. Further information on the various processes involved can be found on the pages of this document highlighted at the various stages.

The planning enforcement process



Enforcement principles

Discretionary

The use of planning enforcement powers is 'discretionary'. This means that there is no statutory requirement to take enforcement action in relation to a breach of planning control. For each breach of

planning control investigated, the council must decide what action is most appropriate, and whether such action is proportionate.

Informal action may include negotiation to resolve the breach, or an invitation to submit a retrospective application

Formal action refers to the service of a legal notice, direct action, undertaking prosecution action or obtaining a court injunction

Taking no further action means the council has decided that it is not expedient (see definition below) to take any action against the breach

Expediency

When determining whether to take action against a planning breach, the council must assess the nature of the breach, and the impact of the breach on public amenity, visual amenity, environmental quality, and the built and historic environment. This assessment will include determining whether the development complies with national planning policies, the London Plan and the Westminster City Plan, as well as other material considerations (**See Useful Terms, pages 24-25**).

Reasons for not taking further action might include:

- There is no harm or insufficient evidence of harm caused by the development
- The benefits of the development outweigh the harm caused
- Planning permission would be granted if an application was submitted

Consistency, Fairness and Transparency

It is important that the decisions made by the council are transparent and consistent across Westminster, and that the approach taken is fair. This accords with the council's vision of a Fairer Westminster. It means that action taken on a similar issue will generally be considered as part of the assessment.

For example, if it is identified that there is similar development in the area, it may be considered that a precedent has been set where:

- the development was investigated, and it was determined that action was not expedient
- the development was retrospectively approved through submission and determination of an application

Where development is unauthorised or becomes lawful through the passage of time (see page 9 for Time Limits) without the council becoming aware of it, this would not create a precedent.

Enforcement toolkit

Westminster City Council will generally try to resolve planning breaches through informal action and negotiation first.

However, where informal negotiations do not result in the planning breach being resolved, there are a number of planning enforcement powers available, and in each case the council must determine which tool is appropriate and proportionate.

Rights of Entry Warrant	A warrant issued by the Magistrates’ Court to enable the council to access a property to investigate a breach.
Planning Contravention Notice (PCN)	A legal questionnaire issued to establish who owns the site, the nature of the breach, and how long the breach has been on-going.
Enforcement Notice	A legal notice that may require the removal of works, alteration to comply with a planning permission, or cessation of a use.
Planning Enforcement Order	The council can seek a Planning Enforcement Order from the Magistrates’ Court where development is deliberately concealed.
Listed Building Enforcement Notice	A legal notice in relation to unauthorised works to a listed building, or failure to comply with conditions attached to a listed building consent (See Useful Terms, pages 24-25).
Repairs Notice	A legal notice setting out the repairs needed for the proper preservation of a listed building.
Section 215 Notice	A legal notice requiring improvements to a building or site when its condition is considered to adversely affect the amenity of the area.
Breach of Condition Notice	A legal notice requiring compliance with conditions attached to an implemented planning permission.
Discontinuance Notice	A legal notice requiring the removal of an advertisement with deemed consent.
Tree Replacement Notice	A legal notice requiring a replacement tree of a certain size and species to be planted in a particular location.
Stop Notice	A legal notice requiring an activity to cease before the expiry of the compliance period set out in a related enforcement notice.
Temporary Stop Notice	A legal notice requiring an activity to cease before an enforcement notice has been served.

Listed Building Temporary Stop Notice	A legal notice requiring unauthorised works to a listed building, or works in breach of a condition on a listed building consent, to cease.
Section 330 Notice	A legal notice requiring information about who owns a property.
Development Completion Notice*	A legal notice stating that a permission will cease to have effect at a specified time, where the Council is of the opinion that a development that was commenced before the expiry of the permission will not be completed within a reasonable period.
Development Commencement Notice*	A legal notice requiring that information be provided confirming the commencement date of a development.
Enforcement Warning Notice	A legal notice requiring the submission of a planning application where there has been a breach of planning control, but there is a reasonable prospect that permission would be granted
Direct Action	Where an enforcement notice has not been complied with, the council may enter the property to fulfil the requirements of the notice and may recover from the person who is then the owner of the land any expenses reasonably incurred in doing so.
Injunction	A legal order issued by the High Court stating that an unlawful act should not take place or should be undone or requiring specified action.
Prosecution	Prosecution may be pursued in the Magistrates’ Court or Crown Court in relation to the following offences: • Failure to comply with a legal notice (e.g. an enforcement notice, listed building enforcement notice, stop notice or s215 notice) • Undertaking unauthorised works to a listed building • Displaying an advertisement without express consent • Unauthorised removal or works to a tree within a conservation area or subject to a Tree Preservation Order • Failure to provide details of a development commencement date* In each case a decision to pursue prosecution action takes into consideration whether such action is in the public interest and if it is proportionate to the nature and scale of the breach.
Recovering financial benefit from a planning offence	Where a planning offence has occurred, and a successful prosecution has been secured against the offence, the council has powers to seek a confiscation order of any financial gains resulting from the planning breach

* These powers have been introduced by the Levelling Up and Regeneration Act 2023, but the changes have yet to come into effect.

Post enforcement matters

Appeals

An appeal may be submitted to the Planning Inspectorate in relation to the service of an enforcement notice, listed building enforcement notice, and a discontinuance notice. The Planning Inspector will consider the appeal, may visit the site, and will issue a decision. If an appeal is lodged, the requirements of the notice and the time period for compliance are suspended until the appeal decision is issued.

There is a right of appeal to the Magistrates' Court for Section 215 notices. If an appeal is lodged, the requirements of the notice and the time period for compliance are suspended until the Court decision is made.

There is no right of appeal in relation to a temporary stop notice, a stop notice, or a breach of condition notice. The validity of the notices can only be challenged by application to the High Court.

The council will seek to recover costs in relation to appeals against enforcement action that are considered to be unreasonable.

Withdrawal of Notices

A request can be made to withdraw an enforcement notice or listed building enforcement notice (a fee is applicable). Unless such notices are withdrawn, they remain as a charge on the Local Land Charges Register.



Useful terms

Advertisement	Is defined as “any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used or designed, or adapted for use and anything else principally used, or designed or adapted principally for use, for the display of advertisements”.
Amenity	The pleasant or normally satisfactory aspects of a location which contribute to its overall character and the enjoyment of residents or visitors.
Ancillary Use	A subsidiary use connected to the main use of a building or piece of land.
Article 4 Direction	An order made by the local planning authority, which restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority’s area. Where an Article 4 Direction is in effect, a planning application would be required for development that would otherwise have been permitted development.
Biodiversity Net Gain	Biodiversity net gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. The word ‘biodiversity’ comes from the term ‘biological diversity’
Change of Use	A ‘change of use’ is a material change in the use of land or buildings from one ‘Use Class’ to another, often requiring planning permission.
Central Activities Zone (CAZ)	This vibrant centre within the heart of Westminster contains the seat of national government, as well as world-renowned shopping destinations including Oxford Street/Regent Street, Piccadilly and Covent Garden. For further details of the geographical area contained within the CAZ, see the City Plan 2019-2040.
Conditions	Stipulations attached to consents and permissions to limit or direct the manner in which the approved development is carried out and maintained.
Conservation Area	A designated area given statutory protection in order to preserve its character and townscape.
Deemed Advertisement Consent	This automatically grants consent for the display of certain “specified classes” of advertisement, subject to conditions and limitations.

Development	Is defined as “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 land”.
Development Plan	Documents that set out a local planning authority’s policies and proposals for the development and use of land and buildings in the authority’s area.
Express Advertisement Consent	This grants advertisement consent for those advertisements that do not benefit from deemed consent and which require consent.
GPDO	The Town and Country Planning (General Permitted Development Order) 2015, which sets out the forms of development for which planning permission is not required, subject to conditions and limitations.
Lawful Development Certificate	A procedure by which existing or proposed uses and other forms of development can be certified as lawful for planning purposes.
Listed Building	A building or other structure of special architectural or historic interest included on a statutory list and assigned a grade (I, II or II*)
Listed Building Consent	Permission required for the alteration or demolition of a listed building.
Local Planning Authority	The local authority or council that is empowered by law to exercise planning functions.
Material Consideration	A matter which should be taken into account when making a planning decision, including whether to take enforcement action.
Permitted Development Rights	The Town and Country Planning (General Permitted Development Order) 2015 grants an automatic right, subject to certain conditions and limitations, to carry out some forms of development without the need to make an application for planning permission.
Planning Permission	Permission required for the carrying out of development that is not otherwise permitted.
Supplementary Planning Guidance	Additional advice issued by a local planning authority expanding upon its statutory policies.
Tree Preservation Order (TPO)	A TPO is an order made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. A TPO prohibits the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority’s written consent.
World Heritage Site	A world heritage site is a heritage asset recognised as being of outstanding international importance, and therefore deserving of special protection. Sites in Westminster include the Palace of Westminster and Westminster Abbey.

Useful documents



National Planning Policy Framework (NPPF)
www.gov.uk/government/publications/national-planning-policy-framework--2

Planning Practice Guidance (PPG)
www.gov.uk/government/collections/planning-practice-guidance





London Plan
www.london.gov.uk/programmes-strategies/planning/london-plan

Westminster City Plan
www.westminster.gov.uk/westminsters-planning-policies





Westminster's Supplementary Planning Documents and Guidance
www.westminster.gov.uk/planning-guidance-support-policies

Government Guide to Planning Enforcement
www.gov.uk/guidance/ensuring-effective-enforcement





Permitted Development Rights for Householders: Technical Guidance
www.gov.uk/government/publications/permitted-development-rights-for-householders-technical-guidance

Outdoor Advertisements and Signs: A Guide to Advertisers
www.gov.uk/government/publications/outdoor-advertisements-and-signs-a-guide-for-advertisers





Planning Inspectorate
www.gov.uk/government/organisations/planning-inspectorate

Planning Portal
Government supported website providing general planning advice and guidance, and links to other relevant Government guidance and legislation. Planning applications and appeals can also be submitted.
www.planningportal.co.uk





Royal Town Planning Institute (RTPI)
The principal body representing planning professionals in the UK and Ireland. The website has a contact database of affiliated planning consultancies, and provides a voluntary service through Planning Aid offering free independent, professional advice.
www.rtpi.org.uk

Historic England
historicengland.org.uk





Planning Aid
planningaidforlondon.org.uk

Listed Buildings in Westminster
www.westminster.gov.uk/listed-buildings





Trees in Westminster
www.westminster.gov.uk/trees-and-high-hedges



City of Westminster