

Old Oak and Park Royal Development Corporation's Planning Enforcement Plan

Contents

- 1. Introduction
- 2. Principles
- 3. Priority
- 4. Process
- 5. Contact

1. Introduction

- 1.1. The Old Oak and Park Royal Development Corporation (OPDC) was established by the Mayor of London in 2015 to deliver the comprehensive regeneration of the Old Oak and Park Royal Opportunity Area. OPDC straddles three west London boroughs (Ealing, Brent and Hammersmith & Fulham) and is the Local Planning Authority for its boundary area. As such, OPDC is responsible for the enforcement of planning controls within its boundary.
- 1.2. The purpose of this Planning Enforcement Plan is to set out the principles that OPDC will apply when handling planning enforcement issues within its area. The plan will also set out the priorities and procedures that will be used by OPDC when dealing with planning enforcement matters. It will also set out what residents and businesses can expect from OPDC should a suspected breach of planning control occur.
- 1.3. Planning enforcement issues can arise when a breach of planning control occurs. This is normally in the form of physical works being undertaken or new uses commencing without first obtaining the required planning permission. However, it can also relate to other planning controls including unauthorised works to protected trees, untidy private land, works to listed buildings without consent, the display of adverts without consent, breaches of planning condition or demolition within a conservation area. Some forms of physical works or changes of use do not require express planning permission as they are automatically permitted by law. Such works or changes of use are known as "permitted development". The carrying out of permitted development does not amount to a breach of planning control.
- 1.4. Development which breaches planning control can become lawful once they have existed for certain periods of time. In these cases, planning

enforcement action cannot be taken. More information on the relevant timescales and on the full legislative framework for planning enforcement can be viewed on the Government's website:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

- 1.5. Enforcement action should only be taken when it is considered expedient to do so. Where a development is considered by OPDC to be acceptable in planning terms, enforcement action would not be taken. In these cases, landowners will be encouraged to apply for retrospective planning permission to regularise the breach of planning control.
- 1.6. Whilst it is not a criminal offence to carry out development without planning permission (unless related to designated heritage assets, protected trees or certain advertisements), non-compliance with an enforcement notice does constitute an offence.
- 1.7. Not every breach of planning control results in harm to the local area. As stated above, Local Planning Authorities can only enforce in cases where it is expedient to do so, having regard to the local development plan and any other material planning considerations. The way in which OPDC will determine which enforcement cases to prioritise is outlined below in Section 3.
- 1.8. Whilst OPDC is responsible for planning enforcement within its area, powers to enforce on a wider range of environmental issues remain with the borough councils. OPDC is committed to working collaboratively with the local authorities on enforcement issues in order to protect the local environment and the amenity of residents, businesses and visitors to the area. OPDC will work proactively to support the borough councils where non-planning enforcement issues arise. OPDC does not have the necessary powers to enforce on highway matters (such as blocked highways, potholes, parking controls), fly-tipping and street cleaning, noise disturbance, licensing matters (such as hours of opening, health and safety, street trading) and air quality matters (such as odour, dust or smoke). As such, if a complaint relates to issues that are not directly related to planning, OPDC will refer the matter to the relevant local authority for further advice. Section 5 of this plan provides links to the local borough council websites.

2. Principles

- 2.1. The principles that will apply to planning enforcement investigations are: -
- 2.2. Prioritisation – OPDC is committed to investigating all valid enquiries relating to an alleged breach of planning control and ensuring that appropriate action is taken. Each case will be prioritised according to the level of harm arising from the alleged breach and/or the degree of conflict with OPDC's planning and regeneration objectives, which are set out within OPDC's Local Plan.

- 2.3. Proportionality** – OPDC’s actions with respect to enforcement action will be reasonable and proportionate to the nature and severity of the breach of planning control under investigation.
- 2.4. Confidentiality** – OPDC will fulfil its duties under the Data Protection Act 2018 and will ensure that the complainants’ details remain confidential, unless prevented from doing so by law.
- 2.5. Equality** – In accordance with the Equality Act 2010, OPDC will ensure that it has due regard to the advancement of equality opportunity in the exercise of its planning enforcement powers. Furthermore, OPDC is committed to adhering to the principles set out in ‘Inclusive London’ (May 2018), the Mayor’s Equality, Diversity and Inclusion Strategy and any adopted changes, when considering planning enforcement action.

3. Priority

- 3.1.** OPDC was set up to manage the regeneration of the Old Oak and Park Royal area. Its mission is to capitalise on the significant HS2 and Elizabeth Line (Crossrail) investment at Old Oak Common to drive forward the delivery of high-quality homes and jobs through the creation of a sustainable new community. Its overarching priority is to deliver this brief.
- 3.2.** Planning enforcement cases will be prioritised, in line with the principles set out in section 2 above, where the alleged breach of planning control is causing particular harm to the area and/ or conflicts with OPDC's planning and regeneration objectives, as set out within the Local Plan.
- 3.3.** OPDC will work proactively with landowners and complainants to resolve planning enforcement issues through a process of mediation if possible. Where appropriate, OPDC will encourage landowners to regularise breaches through the planning application process.
- 3.4.** OPDC will prioritise the following types of enforcement cases:
- Unauthorised uses or works causing significant health and safety issues.
 - Unauthorised uses or works causing significant harm to residential living conditions.
 - Unauthorised uses or works causing significant harm to the delivery of regeneration within Old Oak and Park Royal.
 - Unauthorised uses or works causing significant harm to the proper functioning of designated industrial areas, particularly in terms of incompatible uses and local highway conditions.
 - Unauthorised uses or works causing significant harm to the environment or to a heritage asset.

3.5. All reported breaches of planning control will be investigated in line with OPDC's statutory duties. However, formal enforcement action may only be taken in cases where it is considered expedient to do so and in line with the priorities set out above.

4. Process

4.1. Suspected breaches of planning control should be reported to OPDC in writing. Contact details are provided below within Section 5. It is important that you provide your name, a contact address and ideally a telephone number or email address. All complaints and complainant's details will be kept strictly confidential and will not be disclosed unless OPDC is required by law to do so (for example, during a court case). Unfortunately, OPDC will not be able to investigate complaints that are made anonymously.

4.2. OPDC will aim to acknowledge complaints within three working days. Complaints will then be prioritised for further investigation in accordance with the principles set out in section 3 above. The investigation will normally take the form of a site visit by authorised officers to establish whether a breach of planning control has occurred and to undertake an assessment of any harm as a result of the breach. Officers will only enter premises if it is necessary to do so and will provide proof of their identity before proceeding on-site. It is normal practice for officers to take photographs of the alleged breach on site visits. OPDC will also undertake a desk-based investigation of information relating to the land in order to establish the lawful planning position. These investigations will allow OPDC to understand whether a breach of planning control has occurred. Investigation into land ownership may also be necessary.

4.3. OPDC will proactively work with the local borough councils who may hold historic information regarding the property prior to the formation of the OPDC. This may include seeking information from various departments within the local borough councils which may be of relevance to the alleged breach (for example, council tax records and licensing information). In some instances, OPDC will undertake joint site visits with the host borough should concerns arise relating to breaches of environmental, licensing or council tax regulations, where the local borough councils remain the relevant authority.

4.4. It is important to note that the enforcement process can be a legally complex and lengthy process which can vary considerably between investigations. Therefore, enforcement cases can take many months or in some cases years to be resolved. OPDC will not normally provide routine updates to complainants during an investigation given that there can often be significant periods of time when the status of a case will remain unchanged.

4.5. Where a breach of planning control has been identified, OPDC will consider the most appropriate and proportionate course of action. In some cases, OPDC will seek to resolve a breach of planning control through discussion with the land owner or occupier. This will often be in writing to the land owner/

occupier outlining what the breach of planning control is, what action is required to remedy the breach and the timescale within which the action must be undertaken. In cases where negotiation is not appropriate, or in cases where OPDC is not satisfied that genuine effort is being made to remedy the breach, then formal enforcement action will be considered. Formal enforcement action can include the serving of notice(s) or issuing proceedings under the provisions of the Town and Country Planning Act 1990 (as amended). When expedient, OPDC will consider pursuing direct action for non-compliance with formal enforcement notices. Direct action allows Local Planning Authorities to enter land and undertake the steps required by an enforcement notice. In appropriate cases, OPDC will also consider seeking injunctions and may pursue prosecution where landowners are unwilling to cooperate.

5. Contact

5.1. If you wish to report a suspected breach of planning control or require more advice in relation to planning enforcement issues then you can contact the OPDC planning team at planningenforcement@opdc.london.gov.uk .

5.2. Alternatively, letters can be addressed to:

Planning Enforcement
Old Oak and Park Royal Development Corporation
City Hall (PP 5a)
The Queen's Walk
More London Riverside
London
SE1 2AA

5.3. Should you wish to contact the local borough councils regarding an issue which falls outside of the remit of OPDC Planning, please see the below links to each of the borough's website:

London Borough of Ealing - <https://www.ealing.gov.uk/site/>

London Borough of Brent - <https://www.brent.gov.uk/>

London Borough of Hammersmith & Fulham - <https://www.lbhf.gov.uk/>