

Local Enforcement Plan

Planning Delivery and Place Shaping

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Introduction:

The Oxford Street Development Corporation (OSDC) is a Mayoral Development Corporation and, upon the transfer of planning function the Local Planning Authority for its administrative area. In that role, OSDC is responsible for investigating alleged breaches of planning control and, where it is expedient to do so, take enforcement action in the public interest.

The Planning Enforcement Plan explains how OSDC will approach planning enforcement within its area. It sets out the principles, priorities and processes that will generally apply when responding to alleged breaches of planning control.

OSDC's area falls within parts of the Westminster City Council (WCC) area and the London Borough of Camden (LBC). OSDC will work closely with both boroughs where they hold historic information or retain responsibilities relevant to an investigation. OSDC may also liaise with Transport for London (TfL) and other regulatory bodies where matters overlap with their functions.

What is a Local Planning Authority?

A Local Planning Authority is the statutory body responsible for the planning system in its area. This includes determining planning applications, preparing planning policy documents, and investigating alleged breaches of planning control.

For the purposes of this document, the focus is on OSDC's Planning Enforcement functions only. This document is non-statutory guidance and does not have development plan status. It should be read alongside relevant legislation, national policy and guidance, the London Plan, and adopted development plan documents that apply within the OSDC area, including those of WCC and the LBC where applicable.

OSDC does not yet have its own Local Plan or Statement of Community Involvement and will rely on the adopted development plan and other material considerations until its own planning policy framework is prepared and adopted.

Purpose of Enforcement Plan:

The purpose of this Planning Enforcement Plan is to explain how OSDC will handle alleged breaches of planning control / planning enforcement issues within its area. OSDC is responsible for planning enforcement within its area.

However, powers relating to a wider range of environmental, licensing, highways, building control, public health and civil matters may remain with WCC, LBC, TfL or other bodies.

The plan also sets out the priorities and procedures OSDC will generally apply when considering whether enforcement action is necessary, expedient or appropriate.

Planning enforcement breaches are most commonly the result of unauthorised physical/operational works, material changes of use, unauthorised works to listed buildings, the display of advertisements without consent, breaches of planning conditions, works affecting protected trees, or unauthorised demolition in conservation areas.

Not every breach of planning control will result in formal enforcement action. National planning guidance is clear that enforcement action is discretionary and should only be taken where it is expedient to do so, having regard to the development plan and other material considerations.

Where a breach is considered capable of being made acceptable in planning terms, OSDC may invite the owner or occupier to submit a retrospective planning application.

Where matters fall outside OSDC's planning enforcement remit, OSDC may liaise with WCC, the LBC, TfL or other relevant bodies, as appropriate.

OSDC is committed to working collaboratively with all stakeholders on enforcement issues in order to protect amenity, heritage, public safety, environmental quality and the regeneration objectives of the Oxford Street area.

Further 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>. If you are unsure about a potential breach being immune, please contact the authority.

Principles

The principles that will apply to planning enforcement investigations are:

Prioritisation: OSDC is committed to considering 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.

Proportionality: OSDC'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.

Confidentiality: OSDC 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.

Equality: In accordance with the Equality Act 2010, OSDC will ensure that it has due regard to the advancement of equal opportunity in the exercise of its planning enforcement powers.

Transparency: OSDC will explain, where appropriate, the basis on which cases are prioritised, pursued, regularised or closed.

Expediency and Planning Harm

All reported alleged breaches of planning control will be assessed in accordance with OSDC's statutory duties. Formal enforcement action will only be taken where OSDC considers it expedient to do so, having regard to the planning harm caused, the development plan, other material considerations and the wider public interest.

Where a breach is identified and action is considered expedient, OSDC will seek to protect public amenity and the wider public interest. This may involve negotiation, the submission of a retrospective planning application, the modification or removal of unauthorised works, the cessation of an unauthorised use, or formal enforcement action where justified.

Where OSDC considers that a breach causes no material planning harm, or that planning permission would likely be granted, formal enforcement action may not be expedient. In such cases, OSDC may invite a retrospective planning application or may close the case with no further action.

OSDC will seek to resolve enforcement issues through constructive engagement where possible. However, where negotiation is unsuccessful, inappropriate, or insufficient to remedy the breach, OSDC may take formal enforcement action.

Prioritisation:

OSDC will prioritise enforcement action where an alleged breach gives rise to:

- Significant risk to public health or harm to residential amenity.
- Loss of residential accommodation or harmful unauthorised short-term letting activity.
- Significant harm to listed buildings, conservation areas, non-designated heritage assets, protected trees or the wider environment;
- Significant harm to the delivery of regeneration, place-shaping, public realm or design quality objectives within the OSDC area;
- Significant harm to the character, appearance, vitality or proper functioning of commercial areas;
- Significant harm to the highway network, pedestrian movement, servicing, accessibility or public safety; or
- Continued or deliberate non-compliance following previous advice, warnings or formal action.

The Public Interest

Planning enforcement action must be taken in the public interest. OSDC will consider the degree of planning harm caused, the effect on public amenity and the wider area, and whether formal action would be proportionate and an effective use of public resources.

The fact that a complaint has been made does not of itself mean that formal enforcement action will be taken.

Process

Receipt and Acknowledgement:

Suspected breaches of planning control should be reported to OSDC in writing, using the webform or contact details as published by OSDC. To enable OSDC to investigate a complaint properly, complainants should provide as much relevant information as possible, including the address of the site, details of the alleged breach as well as their name, a contact address and ideally a telephone number or email address. This will allow OSDC enforcement officers to confirm details of the breach and provide updates on case progress.

All complaints and complainants' details will be kept confidential and will not be disclosed unless OSDC is required by law to do so.

OSDC will aim to acknowledge complaints promptly and where possible within three working days.

Assessment and Site Visit:

Complaints will then be assessed and prioritised for further investigation in accordance with the assessed harm they cause. 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 assess any harm resulting from the breach.

Authorised 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, measurements and notes related to the alleged breach during site visits.

Officers will also investigate the planning history of sites to establish the lawful planning position. These investigations will allow OSDC to understand whether a breach of planning control has occurred.

OSDC will work closely with WCC and the LBC where those boroughs hold historic records, local information or regulatory responsibilities relevant to an investigation. This may include, for example seeking information from various departments within the borough relating to council tax records and licensing information.

OSDC may undertake joint site visits or information sharing with WCC or the LBC where matters overlap with functions that remain their responsibility, such as environmental, licensing or council tax regulations.

Communication:

The planning enforcement process can be legally and evidentially complex, and in some cases may take time to resolve.

Timescales will vary depending on the nature of the alleged breach, the evidence required and the cooperation of those involved, whether a retrospective application is submitted, and whether formal action or appeal proceedings or court proceedings become necessary.

There may be periods during an investigation when there is limited visible progress, this does not necessarily mean that no action is being taken. OSDC will seek to provide updates at appropriate stages, taking account of confidentiality, legal privilege, data protection, and the need to avoid prejudicing any formal action.

Formal Action:

Where negotiation is unsuccessful, inappropriate, or insufficient to remedy the breach, OSDC may take formal enforcement action. This may include the service of notices, prosecution, injunction proceedings or direct action where lawful and justified.

OSDC may also consider court proceedings, including injunctions, where this is necessary to prevent or remedy significant planning harm, taking into account the wider public interest.

Rights of Entry:

Authorised officers have statutory powers of entry for enforcement purposes in certain circumstances including under the Town and Country Planning Act 1990 and related planning legislation). These powers may be used, where necessary and proportionate, to investigate whether a breach of planning control has occurred, to assess whether enforcement powers should be exercised, or to check compliance with any formal notice requirement. Authorised officers will identify themselves and explain the purpose of any site visit.

Appeals and Compliance:

Where a formal notice has been served, it will specify the steps required to remedy the breach and the period within which compliance is required.

The effect of a notice, or the relevant compliance period, may be suspended or varied where legislation allows and the circumstances justify it. Failure to comply with

the requirements of an enforcement notice may result in prosecution or other further action.

The authority will seek to recover its costs where appellants have behaved unreasonably.

Exercise of Discretion:

Planning enforcement is discretionary. This means that OSDC is not required to take formal action in every case where a breach of planning control may have occurred.

In each case OSDC will consider whether action is proportionate and expedient, having regard to the planning harm caused and the public interest.

Complainants are encouraged to explain clearly the nature of the alleged breach and the planning harm they believe it is causing

Matters outside OSDC's Planning Enforcement Remit:

There are some matters relating to land and property that we will be unable to investigate as we lack the legislative powers to do so. In these instances, we advise that you seek independent legal advice.

Civil Disputes:

OSDC cannot intervene in private civil disputes such as boundary disputes, land ownership issues, rights of way, lease disputes, claims for damage to property as a result of building works, or party wall matters. These are civil matters for the parties concerned and where necessary their legal advisors.

Matters That Are Not Development:

Not all works or activities amount to development for planning purposes. Where a matter does not fall within the statutory definition of development, OSDC will not be able to take planning enforcement action.

That may include, for example, certain minor works, temporary activities of limited duration, or other operations that do not amount to development in planning terms.

Building Work and Construction Impacts:

OSDC's planning enforcement role does not extend to all construction related impacts. Matters such as noise, dust, parking, highways obstruction, licensing, environmental health and building control may fall within the remit of WCC, LBC, TfL, or other regulatory bodies unless they are controlled by a planning condition or another planning requirement.

Where appropriate, OSDC may refer matters to the relevant authority.

Review

The Enforcement Plan will be subject to periodic review to reflect changes in legislation, local circumstances, OSDC governance arrangements, and operational experience.

Contact Details

To report a suspected breach of planning control, or to seek further advice about planning enforcement, please contact the OSDC Enforcement Planning Team at OSDC Planning Enquiries Planning.Enquiries@oxfordstreet.org.uk

Alternatively, letters can be addressed to:

Planning Enforcement

19 Wells Street

London

W1T 3PA