

Planning Enforcement and Prosecution & Direct Action policies: Consultation feedback

Consultee name	Consultee organisation	Date	Policy	Section	Comment/s	Comments	Done?
Vicki Winsor - Secretary	Headstone Residents' Association	24-Jan-12	Both	general	Support the comments made by the Pinner Association to this consultation.	Noted	N/A
Vicki Winsor - Secretary	Headstone Residents' Association	24-Jan-12	Both	general	Happy to see a council document so clearly written and concisely expressed.	Noted	N/A
Laurence Leapman	N/A	20-Dec-11	Both	general	I have today written to you with my approval of the proposed enforcement team and giving case histories of instances where action should have been taken. WEST/520/97 breached. P/2759/10, improperly submitted and withdrawn P/0440/11 refused. P/0458/11 improperly submitted and refused. P/2890/11 currently being considered after being improperly submitted but containing a hidden amendment to legitimise the continuing breach. Objections on the Planning web site all mention the blatant disregard of planning conditions.	Noted- no specific changes suggested	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	2.1	Delete "consideration will be given to prosecuting, cautioning or, where appropriate, taking direct action" and substitute "appropriate enforcement action will be taken." The policy must be positive.	No- further action won't be appropriate in every case, as explained further in the rest of the policy.	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	2.3	The penultimate bullet point -"The cost to the council of taking direct action, and the likelihood of recovering costs in the short term" - should be deleted. The tests must be the principles set out in the first four bullet points of this paragraph. Certain costs have to be borne if a strong system of enforcement is to be established. Once this has occurred it is highly likely that the number of contraventions will decrease as potential contraveners will become aware of the relative certainty of punishment.	There may be high costs associated with some types of direct action (eg. working at heights, complex engineering operations, etc) which would have significant implications for the directorate's budget. Cost will inevitably be a consideration in this assessment- and should therefore be included here for transparency.	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	3.11	Following on from our comments above re the paragraph 3.4 we suggest that the taking of an antagonistic attitude or the ignoring of all communications from the Council should be added to the list of factors in this paragraph.	Check with legal.	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	3.12	First bullet point – "the court is likely to impose a very small or nominal penalty". This needs to be qualified because whilst a court may impose a small penalty on the first occasion a complainant comes before it subsequent occasions can result in substantial daily fines.	Include wording to this effect	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	3.4	We suggest that the second line - "Prosecution will be considered in the most serious cases." - be deleted. Even in standard cases if a contravener ignores all threats it may be necessary to prosecute (more than once if persistent offenders) to obtain compliance.	Prosecution won't always be appropriate (eg. public interest test, etc). Include "subject to the evidential and public interest tests, as outlined below"	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	4.1	We consider that an injunction can be a most effective remedy and one which sends out a clear message. It can be of use in certain "standard cases" if the Council is prepared to move quickly. A property being built differently from approved plans or in a different place are examples. Once a building is up the Council's position is weakened.	Legal section (AK) confirmed 15/Feb/12 that the courts will not tolerate the routine use of injunctions.	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	P & DA Policy	5.1	The reference to the Council's resources in the second line is not understood or accepted. Surely the Council has a range of contractors and specialist contractors available to them. Most matters do not require extremely complex building or engineering works. Expense does not affect the feasibility of remedial works.	May need to re-word to clarify. Resources here refers, effectively, to monetary cost.	Y
Bernard Wainwright	Hatch End Association	16-Jan-12	P & DA Policy	general	No comment. Seems a pretty straightforward legalistic description	Noted	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	3.1	We are pleased to note the commitment to "an active approach to planning enforcement". All too often the approach has been reactive in the extreme. It would be helpful if the policy would indicate what forms this activity is likely to take.	May need to clarify this to make clearer that enforcement will remain a largely reliant on information supplied by outside parties/other parts of Council	Y
	The Pinner Association	23-Jan-12	PE Policy	3.1	Because it is unlikely that most members of the public will have access to approved plans and building sites we propose that Building Control Officers who have both should look out for any unauthorised building work and to liaise with their Planning colleagues. Early notification greatly increases the chances of obtaining injunctive relief against contraveners. Once a building is up the Council's position is weakened.	This is informal practice already, but it is perhaps not appropriate to include actions which would impose responsibilities on BC officers in this, a planning policy. (Mention in policy that this often occurs?)	Y
Vicki Winsor - Secretary	Headstone Residents' Association	24-Jan-12	PE Policy	3.11	Although interior works to buildings do not require planning permission, perhaps it would be possible to mention, for information, that there are other enforceable rights under the Party Wall Act.	Reluctant to begin mentioning other areas of legislation wherever they may be relevant, as it is not directly relevant to this policy and could distract from the core message. Neighbour disputes are covered elsewhere in the policy	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	3.12	Comment re the last paragraph of this section: Whilst accepting that resources are not infinite and need to be directed towards the most serious cases first, the Council must accept that all serious cases must be tackled. This is so even if staff and budgets have to be taken from elsewhere because if, as has occurred in the past, Harrow becomes known as "soft touch" none of its other Planning policies will mean anything if they can be ignored with impunity. Likewise the Council Tax payers who you serve have a right to know that contraveners will be brought to book.	Noted. 4.16 provides more details on how cases will be prioritised, but unable to commit to bringing in resources from other parts of the Council.	N/A
Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	3.16	Should there be a formal reference to the Direct Action Policy document ? Or at least quote the title of the document more exactly, i.e. "Planning Enforcement (Prosecution and Direct Action) Policy", as in the title of the second consultation document?	Noted. Better to combine the documents?	Y
Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	3.19	In the first line of second paragraph is "namely" the right word, as it implies the preservation of the environment is the only "legitimate aim", whereas the better use of land and of resources (as in paragraph 1.1) is surely also legitimate ? Suggest "for example" instead.	Agreed.	Y

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Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	3.5	Shouldn't the National Planning Policy Framework also be mentioned here ?	This is covered by "government policy and guidance" (include in brackets as an example?)	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	4.16	We would like the first line to be prefaced with the words "After a prompt but thorough investigation". If after a thorough investigation a breach is found to be trivial we appreciate it may not need to be pursued. However all complaints do need a proper investigation because until a stone is lifted it cannot be known exactly what lies beneath.	Assigning a priority needs to occur prior to SV because it will determine response times etc. Perhaps need to state here that process of assigning a priority will of necessity include a desktop review, and that priority may be changed following SV.	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	4.18	We feel that the first six words of this paragraph - "Subject to workload and available resources" - should be deleted. It should always be possible for a clerical assistant to send an acknowledgement promptly and to advise the complainant of what will happen next and when. Most residents find it difficult to make a formal complaint and when they do, to them it is an important and urgent matter. An acknowledgment is an elementary courtesy.	An acknowledgement will always be sent, as stated in the policy. Difficult to state categorically that acknowledgment and registration of complaint will always take place within the limits given, due to staff illness etc, but there's no reason why we couldn't achieve this except in exceptional circumstances, so agree.	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	4.18	We would also like to see an obligation on the Council to keep complainants regularly updated through the whole process.	Difficult to define/standardise 'regularly', but can add issue of an EN as an instance when the complainant will be advised.	Y
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	4.20	We are concerned about the time limits proposed for initial site inspections for category C and D complaints. Over three weeks for category C (standard cases) is far too long. This category will, by definition, constitute the majority of cases. The complainants, Council Tax payers, do expect to see prompt action initially on their complaints. Additionally such delay must seriously damage any chance of an injunction and sends a message to contraveners that the Council is not actively pursuing their cases with all means at their disposal.	Timelines have been arrived at as a pragmatic response to available staffing levels (ie. only one regular site inspection officer for the whole borough). Given this, timelines proposed here are already challenging compared to what we are currently able to achieve, and will be more so from April onwards. Therefore reluctant to change this. If we do so we will perhaps not be managing expectations effectively.	N/A
Mr G. T. Wheal - Chairman (Planning Sub-Committee)	The Pinner Association	23-Jan-12	PE Policy	4.20	For category D complaints there should be a time limit so that complainants know that their complaint will be dealt with, not shelved. Please also see our comments re paragraph 4.18.	Category D are those cases where clearly little planning harm is being caused. Any commitment to investigate these would add considerably to the team's workload for no discernable planning benefit. This would be at the expense of time spent on higher priority cases, and investigating these may raise unreasonable expectations of the complainant involved, and may drag the enf team into neighbour disputes.	N/A
Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	4.22	There are several references in the text to enforcement notices, but nowhere any description of the actual issue of an "Enforcement Notice "as such. Presumably an Enforcement Notice consists of the first two or perhaps three headings in this paragraph, in which case it might be helpful to actually describe them as such	Need to be clearer that this is pre-EN. Include "in writing". Also be clearer what we mean by 'formal enforcement action' in sections 4.27 to 4.29	Y
Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	4.27	Shouldn't the National Planning Policy Framework also be mentioned here ?	NPPF not adopted yet. Have included 'policy' to broaden this. NPPF mentioned earlier in policy in any case.	Y
Bernard Wainwright	Hatch End Association	16-Jan-12	PE Policy	4.30	Accepting or acknowledging a period of several months for appeals seems at variance with some of the highest priority, urgent cases, but no doubt cannot be helped. No doubt a temporary stop notice for the action involved would be issued, and if ignored would just worsen the outlook for the contravener by making the offence a criminal one as well as leading (one hopes to a "dismissed" appeal ?	Need to state explicitly that appeal timelines are outside the control of LPA.	Y

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Alan Evans - Chair (Planning Committee)	Harrow Hill Trust	24-Jan-12	PE Policy	general	<p>The document regarding planning enforcement does not seem to mention the monitoring of planning permissions which are given subject to certain conditions.</p> <p>These are of two types, temporary planning permissions and permission subject to a Section 106 agreement. In the first case, Harrow often gives planning permission for buildings or activities which are only valid for a definite term. But it would seem that no attempt is made to monitor what happens when the permission ceases to be valid. Can I suggest that some form of monitoring is instituted? I am aware that in other local authorities those permissions which have a limited life are closely monitored. It seems remiss of Harrow not to have such a system.</p> <p>I cite two examples from other local authorities, both arising from the experience of the Harrow Hill Trust's Executive Committee:</p> <p>Firstly, Milton Keynes College had a building with a temporary permission. A year before the permission expired the local Council wrote to ask what the intentions of the College were and to point out that if permission were not obtained then the building had to be demolished when the temporary permission expired. Demolition was then, at the Council's insistence, carried out on the day the permission expired</p> <p>Secondly, the United Westminster Schools Foundation obtained temporary permission from Wandsworth for a mobile home to accommodate the caretaker whilst the caretaker's cottage was modernised and other ground work carried out nearby. A year before the temporary permission was due to expire, Wandsworth reminded the Foundation that it was due to expire, and that either the mobile home had to be moved or a new permission obtained. In order to comply in time the decorating and snagging items on the cottage were carried out after the caretaker had moved back in.</p> <p>Thus it is evident that other boroughs are rather more proactive in enforcing temporary permissions than is Harrow. In these days of computerisation it would presumably be easy to arrange for a notification to be sent a year before a temporary permission expired, as I suspect Milton Keynes and Westminster have arranged. By comparison, Harrow's policy seems to accept that temporary permissions are effectively permanent ones.</p>	<p>Monitoring is covered (briefly) in the policy at 3.15, but probably more needs to be said. There's a case for some kind of automated process of notification in relation to temporary permissions.</p>	Y
Alan Evans - Chair (Planning Committee)	Harrow Hill Trust	24-Jan-12	PE Policy	general	<p>The same argument applies where the activity, rather than a building, is supposed to be temporary I am aware, for example, of another application where permission was sought, in this case, to carry on a business at home. The permission was granted for a specific period and has expired some years ago, but the activity continues. In the nature of things the neighbours are concerned but do not want to be accused of 'grassing'.</p> <p>The other problem arises when the activity which is permitted is subject to conditions. Harrow does not seem to make any effort to enforce the conditions. This problem is exemplified in the situation of Orley Farm School. It recently put forward plans for a major development on its site to provide better facilities, in particular a new dining hall and a new music school. The first planning application was made in March 2010. To the surprise of both school and residents, however, this application was rejected on the grounds that the School was in breach of a 'Section 106' condition attached to a planning permission granted in 1998 which limited pupil numbers to 470. At the time the application was made in 2010 actual pupil numbers had crept up to 493: the application proposed that numbers would further increase to 520. The Council's view was that until the breach of the Section 106 condition was resolved, it could not deal with the new planning application.</p> <p>It might be argued that it was up to the School to ensure the condition was met, but during the period since the Condition was laid down, the Bursar, the Headmaster, and other senior staff had all changed. Moreover it is supposed to be in the interests of Harrow that the condition is met, it would therefore seem up to Harrow to ensure that it is enforced. Waiting until another planning application might be made seems an ineffective way of dealing with enforcement.</p> <p>We pass on these points because they do not seem to be dealt with in the draft document, and we think they should be taken into account. After all there seems little point in laying down conditions or giving temporary permissions if there is no intention of monitoring them.</p>	as above	Y