

**Birmingham City Council**  
**Birmingham Local Enforcement Plan**  
**Consultation Statement**

## **1. Introduction**

Birmingham City Council consulted on the Draft Birmingham Local Enforcement Plan (BLEP) in October and November 2020. This statement describes the level and type of responses received, the main issues raised and how they have been addressed in the final BLEP. The statement has been prepared in accordance with the Birmingham Statement of Community Involvement.

## **2. Purpose**

The National Planning Policy Framework suggests that Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area.

The Birmingham Local Enforcement Plan (BLEP) relates to Birmingham City Council's planning enforcement service and describes the purposes of the service and how it will be delivered.

The BLEP explains the Council's policy and procedure for dealing with reports of alleged breaches of planning control and handling planning enforcement issues. It identifies local priorities for enforcement action so that the Council's enforcement resources are put to the best use in dealing with breaches of planning control. The BLEP has been designed to meet the current needs of the city rather than producing an "off the shelf" version similar to other Local Planning Authorities.

Although planning enforcement is discretionary and not a mandatory function of Local Planning Authorities, it is commonly recognised that the integrity of the Development Management process depends on the Council's commitment to take effective action against unauthorised development.

The BLEP will therefore ensure that officers, councillors and the general public will be aware of the approach to planning enforcement and provides greater certainty for all parties engaged in the development process.

Public consultation on the draft BLEP was carried out for six weeks, from 5th October 2020 to 16th November 2020, when views were sought from stakeholders and the public.

## **3. Consultation Results**

Public consultation on the draft BLEP was carried out for six weeks, from 5th October 2020 to 16th November 2020, when views were sought from stakeholders and the public.

It was decided to consult every person/organisation on the Planning Policy Consultation database. They were notified either by email or posted letter. The Council's website made reference to the consultation via the Planning pages and included a copy of the draft BLEP. The consultation was uploaded to BeHeard and a specific email address was created for comments to be received (blep@birmingham.gov.uk)

Six organisations and six individuals responded to the consultation, generating approximately 48 individual comments.

### 3. Consultation responses

Theme:	Main issues raised:	How these are addressed in the BLEP:
General Comments	HMO properties in Selly Oak	The growth of HMOs is addressed in the section 'Challenges'.
	Proceeding with building works when permission has been refused	The BLEP states that the City Council will not condone wilful breaches of planning control and will exercise its discretion to take enforcement action.
	Undertaking building works that are outside Permitted Development Rights	The BLEP states that the City Council will not condone wilful breaches of planning control and will exercise its discretion to take enforcement action.
	Incursions onto public land	The issue would be passed to the Directorate responsible for the land.
	Failure to adhere to enforcement orders	Explained under 'What happens when we take formal action'
	Deleterious impact on community relations when breaches occur and are not dealt with expeditiously and forcefully	Explained under 'Enforcement action is discretionary'
	Zero tolerance	Explained under 'Enforcement action is discretionary'
	Enforcement is default option	Explained under 'Enforcement action is discretionary'
	All enforcement orders are pursued	Explained under 'What happens when we take formal action'
	Actions should be publicised	As a result of this consultation actions will be publicised
	Work together with other departments	Happens automatically as part of the investigation process

	<p>Presumption in favour of preserving the local character</p> <p>Monitoring should take place</p> <p>Financial penalties should be applied</p> <p>The objective “to preserve significant buildings in conservation areas” should cover all aspects of the conservation area, not just significant buildings.</p> <p>The plan is reactive and does not set out how enforcement will be managed proactively. It does not address resourcing.</p> <p>Significant structures should be included i.e. there are 54 listed structures along the 56km canal network.</p> <p>No mention of supported and exempt accommodation.</p>	<p>Explained under ‘Enforcement action is discretionary’</p> <p>Monitoring takes place as part of the investigation. See ‘What you can expect if you report an alleged breach of planning’</p> <p>Fines can only be imposed by the Courts. See ‘What happens when we take formal action’.</p> <p>This objective does go on to state that <u>any</u> development in a conservation area should maintain or improve the special character.</p> <p>Planning enforcement, by its very nature is a reactive service. The purpose of the plan is to set out a framework for the planning enforcement service, which does include proactive compliance. It is not an appropriate document to discuss staffing resources.</p> <p>The objective will be amended to include “and structures”.</p> <p>A paragraph will be added to the BLEP to explain this challenge.</p>
General Comments about Government Guidance and Legislation	<p>Formal action should always be taken (Proportionality, Discretionary, Expediency, Public Interest).</p> <p>The public should be able to appeal the Council’s decision. (No third party right of appeal)</p> <p>We should be able to take formal action at any time (Time Barred).</p>	<p>All of these matters are discussed in the BLEP and are set by legislation and government guidance. Birmingham City Council is unable to deviate from legal requirement. Nor should it go against Government guidance as that would open the risk of a costs award against the Council.</p>

	A number of proposals about the Advert Regulations were put forward and noted.	
General Questions	<p>Number of prosecutions?</p> <p>Can public see report on numbers sent to Planning Committee?</p> <p>Who is Head of Enforcement?</p> <p>How to report a breach?</p>	<p>A report can be run on the number of prosecutions and will be included in the bi-annual report to planning committee. It will also form part of the 'numbers' made public.</p> <p>'Numbers' will be reported publicly, as a result of this consultation.</p> <p>James Wagstaff</p> <p>Complete the planning enforcement complaint form found online at <a href="http://www.birmingham.gov.uk/planning">www.birmingham.gov.uk/planning</a></p>
Enforcement Presence	<p>Why does enforcement seem ineffective?</p> <p>Publicise positive actions.</p>	<p>The decision to publicise the positive work of the enforcement team as a result of this consultation will help to change public perspective.</p>
Prioritisation	<p>Priority 3 cases will not be treated less favourably.</p> <p>Remove words "where possible" from Priority Aim.</p> <p>Contact with complainant should be made within 7 days for priority 3 to let them know what is happening.</p> <p>An update on the complaint should be sent within 30 days.</p>	<p>Priority 3 cases will be investigated and decided in line with current legislation and government guidance as described in the BLEP</p> <p>The BLEP has been amended (priority table) to remove the words "where possible" from Priority Aim</p> <p>The BLEP states (priority table) that first contact with a complainant for priority 3 cases is 3 days. They will be notified of the contact details of the investigating officer</p> <p>The BLEP states (priority table) an update will be received within 30 days for Priority 3 cases</p>

	There should be a realistic target for completion of assessments.	The priority table details these targets.
Communication	Notify a complainant immediately which priority their case is allocated to.	The BLEP will be a part of the complaint form so a complainant will be able to see the priority list and therefore know which types of complaint are allocated to the 3 priorities.
Non enforcement matters	Data protection. Affordable Housing. Section 106 agreements. Neighbourhood Plans. Safety of advertisements. Article 4 Policy.	Noted. Not necessary to include these in the BLEP as other documents/departments are more appropriate to deal with these matters.
Live cases	A question was asked about a live case in Selly Oak.	Members of the public can request to be added as a complainant to a live enforcement case so that they are notified of the outcome.
Harm	Definition of harm  Cumulative harm: Article 4 Driveways Schemes of planting	The BLEP contains a section titled 'What is harm'?  Each enforcement case is judged on its own merits. A number of factors are considered, including cumulative harm, when making a planning judgement