

**Changes to the
Enforcement
Regime**

DLP BRIEFING NOTE 102

Prepared by
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On 1st March 2012, The Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 was made.

Of the various provisions contained therein, Section 8 made provision to bring into force Sections 123 to 127 of the Localism Act 2011 on 6th April 2012. This introduces some notable changes to the current enforcement regime.

Local Planning Authorities (LPAs) now have the ability to decline to determine an application for retrospective planning permission submitted after an enforcement notice has been served, if granting planning permission would involve permitting all or part of the development specified in the enforcement notice as constituting a breach of planning control.

Ground (a) enforcement appeals – appeals brought on the basis that planning permission ought to be granted - are also no longer available if a planning application has been made for the same development but which has not yet been determined.

As such, clients are advised that early action at the first hint of enforcement action is now even more essential than ever to ensure the maximum range of options can be considered.

With regard to concealed breaches of planning control, where there is deemed to be deliberate concealment of a breach of planning control, the LPA may apply to the Magistrates' Court for a planning enforcement order.

Where such an order is granted, LPA's will have up to 1 year and 22 days to serve an enforcement notice irrespective of how long ago the breach first occurred. As such, the usual 4 and 10 year periods do not apply in such cases whereby development would normally become lawful.

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