

A Guide to Planning Enforcement and Monitoring

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The planning system controls and manages development in Scotland to ensure the sustainable, long-term use and development of land in the public interest. Enforcement of planning control and the monitoring of approved development play an important part in this process and it is also an area that concerns many members of the public.

Enforcement focuses on development or activity that does not have the necessary planning permission i.e. unauthorised development or a breach of planning control. **Monitoring** ensures that applications that have been granted permission are correctly implemented as per the approved plans and any conditions.

Planning permission is required for most development but there are some works and uses that enjoy *deemed permission* and therefore do not need permission by way of the planning application process.

Unauthorised or Allowed?

If you are intending to carry out any building works or preparing to make any changes in the way land or buildings are used, you should establish with certainty whether planning permission is needed, preferably in writing.

What is a breach of planning control?

Possible breaches can include:-

- *work being carried out without planning permission or consent*
- *an unauthorised change of use of land or building*
- *non-compliance with conditions imposed by a planning permission or consent*
- *non-compliance with approved plans*

Worried about works near you?

If you are affected or concerned about any development and want to inquire whether planning permission was or should have been obtained, you may contact us. While we accept telephone inquiries, they should be followed up in writing and should include the following information:

- the address of the property concerned
- the name of the person or company involved
- details of the suspected breach with times and dates if relevant
- your contact details
- how the breach affects you & any problems caused by the breach
- whether the enquiry is to be treated confidentially

All enquiries should be directed to the Enforcement or Monitoring Officer at the Park headquarters or by **e-mail** at:

planning@lochlomond-trossachs.org.

Key points about enforcement

- Enforcement is not a punitive process; it is aimed at resolving problems in a proportionate manner.
- Use of enforcement powers are discretionary and formal action is always a last resort.
- Enforcement action is generally not taken against minor breaches where there are no adverse environmental or public amenity effects.
- Strong effective action is appropriate in certain circumstances.
- It is often a lengthy, complex process.

Key points about monitoring

- Planning approvals are monitored to ensure compliance with the approved plans & conditions.
- Applicants must give written notice before starting works and on completion.

Note: Anyone can view applications and decisions on-line.

Priority categories of breaches

Enforcement cases are allocated a *high, medium or low priority* according to the relative seriousness of the breach. This is necessary to ensure an effective enforcement service where we receive a large amount of enquiries and cannot give each one equal priority.

Enforcement Charter

For more detail on the priority system and for more information on how the enforcement and monitoring processes work, what role the public can play and what service standards the public can expect - see the [NPA Planning Charter](#).

Time limits on enforcement action

No enforcement action may be taken outwith strict time limits, namely:-

4-Years – applies to unauthorised ‘operational development’ (building, engineering, mining or other operations in, on, over or under land) and to a change of use to a single dwellinghouse. After four years following the breach of planning control, no enforcement action may be taken.

10 Years - applies to all other development including changes of use (other than to a single dwellinghouse) and breaches of condition. After ten years, no enforcement action may be taken.

Enforcement powers & policy

The law is set out in:

- Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- Listed buildings are covered by the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The Planning Acts can be viewed online at the Office of Public Sector Information (OPSI) website; <http://www.opsi.gov.uk/>.

Government policy is set out in Planning Circular 10/2009: *Planning Enforcement* - <https://www.gov.scot/publications/planning-circular-10-2009-planning-enforcement/>.

Types of Enforcement Notices

Breach of Condition Notice (s145) – is used where a condition is not complied with.

Enforcement Notice (s127) - is used to deal with unauthorised development. The notice will specify effective and compliance time periods and what steps should be taken to remedy the breach. There is a right of appeal.

Listed Building Enforcement Notice - is used where there has been a breach of the listed building controls. There is a right of appeal.

Stop Notice (s140) - is used where an unauthorised activity needs to be stopped urgently. There is no right of appeal.

Temporary Stop Notice (S144A) – emergency measure to prohibit unacceptable activity for up to 28 days.

Fixed Penalty Notice (s136A / s145A) – is an alternative to prosecution for failure to comply with an enforcement notice or breach of condition notice.

Notice Requiring Application for Planning Permission for Development Already

Carried Out (s33A) - is used to require the submission of a retrospective planning application; it constitutes formal enforcement action.

Others powers

Planning Contravention Notice (s125) - is used to obtain information about activities or development on land.

Amenity Notice (s179) (‘wasteland notice’) - is used where the condition of land is having an adverse effect on the amenity of the area.

Interdict and Interim Interdict (s146) – is granted by the court to restrain or prevent a breach of planning control. Failure to comply with the terms of an Interdict is a matter for the courts.

Direct Action – can be taken by carrying out the specified steps where a notice has not been complied with.