



Fermanagh and Omagh District Council Enforcement Strategy May 2025



Fermanagh & Omagh
District Council
Comhairle Ceantair
Fhear Manach agus na hÓmaí

1.0 Introduction

- 1.1 Fermanagh and Omagh District Council places great importance on protecting our communities, our heritage and the natural environment from unauthorised development that causes harm or which shows a disregard for the planning system.
- 1.2 Planning permission from the local planning authority is usually needed to undertake development (that is, to carry out building works and/or to 'materially' change how a property is used).
- 1.3 Failure to obtain planning permission or other consent where it is required, or to adhere to conditions attached to planning permission constitutes a 'planning breach'.
- 1.4 This document sets out what you can expect from the Council when you report a potential breach of planning control, what powers are available to the Council and explains how we will investigate your concerns, how we prioritise enquiries, our timescales for investigation and how we will keep you informed during the investigation. It also sets out how the Council will respond in the event a planning application to regularise unauthorised development.
- 1.5 The Council will be guided by the principle of remedying breaches of planning control (and any other planning offences) with the agreement of the landowners and/or operators. Where enforcement action results in legal action being taken, we will seek to recover our costs, where possible.
- 1.6 The Council is committed to delivering high quality services in an efficient, effective and professional manner while providing easy access to information. Everyone who comes into contact with the Council has the right to be listened to, acknowledged and respected and the Council considers that staff have the same rights. Occasionally, Council staff engage with individuals who communicate in a manner that causes offence, and which could be considered to be unreasonable behaviour. Further information on what is considered unreasonable behaviour and how we will respond to it can be found in the Council's Guidance on Unreasonable Behaviour on the Council website at: <https://www.fermanaghomagh.com/your-council/policies/>

2.0 The Council's approach to Planning Enforcement

- 2.1 Planning enforcement ensures that where harmful development is carried out without permission or consent, it is remedied, either by its removal or its modification, for example by attaching conditions to planning permission.
- 2.2 The Council's function as the planning authority for Fermanagh and Omagh District is set out in The Planning Act (Northern Ireland) 2011. The Council's Planning Department administers most of these planning functions, including the power to take enforcement action.

2.3 All enforcement cases will be investigated properly, and the following key questions answered:

1. Is there development?
2. Is there a breach/is it unauthorised?
3. Can this be resolved through negotiation?
4. Is there harm?
5. Is enforcement action expedient?
6. What action is appropriate or proportionate?

2.4 Planning legislation affords the Council a wide discretion as to whether to instigate enforcement action when a breach of planning control has been identified. Enforcement action is discretionary and must be proportionate and the existence of a breach is not in itself, a good reason to take enforcement action. In exercising this discretion, the Council must take into account the provisions of the local development plan and all material considerations.

2.5 The Council considers that enforcement action will be taken where it is “expedient”; that is where there is harm i.e. there is a negative impact from the unauthorised development. Where it is considered expedient to take action the Council will adopt a proportionate approach.

2.6 Formal action against a breach of planning control is the last resort and the Council considers that it should first give those responsible for the breach an opportunity to put things right. The Council’s approach will always be commensurate with the seriousness of the breach. When there are serious harmful effects, protracted negotiations will not normally delay formal action, including recourse to the courts. Every effort will be made to resolve inadvertent or minor breaches through discussion and retrospective planning applications. More serious breaches are likely to result in formal enforcement action. Action will not be taken against minor or inconsequential breaches with no harm.

2.7 Enforcement action will always adopt a proportionate approach, and the statutory enforcement regime does not concern itself with punishment, at least in the first instance. Where things are put right then the Council will respond positively in deciding whether any ongoing legal action should continue.

3.0 Enforcement powers available to the Council

3.1 The Council’s function as the planning authority for Fermanagh and Omagh is set out in The Planning Act (Northern Ireland) 2011. [Appendix 1](#) includes a list of the powers and responsibilities available to the Council.

4.0 How we will deal with your enquiry

4.1 You should submit allegations of unauthorised development using the NI Planning Portal at the following link:

<https://planningregister.planningsystemni.gov.uk/enforcement>

Or, alternatively, you can also notify us via an email to the Council at planning@fermanaghmagh.com or by writing to us at Fermanagh and Omagh District Council, Planning Department, Strule House, 16 High Street, Omagh, BT78 1BQ or County Buildings, 15 East Bridge Street, Enniskillen, BT74 7BW or by telephoning 0300 303 1777.

- 4.2 If you are contacting the Planning Office we will ask you to provide details of the alleged breach, the location (including a site-specific location) and other information that may be relevant, including the alleged offenders name and address. These details are all required in writing so we know exactly what to investigate and we can substantiate the case in future.
- 4.3 When making an enquiry you will be asked to provide your name and address. Anonymous enquiries will not normally be investigated unless there is clear evidence of environmental harm, for example, ongoing pollution to the environment or harm to a protected species or priority habitats. Where there is no evidence of environmental harm then anonymous enquiries will not normally be investigated.
- 4.4 We will treat the personal details of enquirers in confidence but if formal action results, we may ask you to help the Council's case. A successful outcome could depend on your support.
- 4.5 If you are concerned about providing your name and address, you may wish to contact your local Councillor who may agree to act on your behalf.
- 4.6 We will acknowledge your correspondence in writing (normally by email) and provide a case reference.
- 4.7 We will keep you informed as the investigation progresses. However, until a Notice is issued by the Council we are unable to provide you with an update as this may prejudice the outcome of the investigation. We will inform if a Notice has issued, or the matter has been referred to the Council Legal Advisors for summons to be issued or the investigation is closed. We will also inform you if an appeal is received against a Notice.

5.0 The outcome of your enquiry

- 5.1 There are several possible outcomes to your enquiry, depending on the circumstances:
- 5.2 **No breach**
This would be where, for example, the matter is 'permitted development' or outside planning control or the unauthorised use has ceased. There is also no breach where the development is immune from enforcement action. The statutory time limits for enforcement action are set out in [Appendix 2](#).
- 5.3 **Not Expedient**
The breach is not expedient to pursue. An example is a householder development slightly larger than that which would have been allowed under

‘permitted development’, where in the absence of significant harm to public amenity enforcement action would be disproportionate.

5.4 Negotiated remedy

The developer agrees to cease the breach. However, we will not allow negotiations to unduly hamper or delay formal action where it may be required to make the development more acceptable in planning terms or compel it to cease.

5.5 Retrospective application

An application could be invited where there is a reasonable prospect of obtaining permission. No inference on the outcome of any subsequent application should be taken from this approach. It must also be noted that anyone has the right to submit a retrospective application, regardless of the likelihood of it not obtaining Council support.

Where a retrospective planning application has been asked for, we will normally wait a reasonable period for it to be submitted and for its determination before taking further enforcement action. However, where no application is forthcoming or the application is not determined within a statutory timeframe (15 weeks for a local application or 30 weeks for a major application), enforcement action will be likely to progress without delay.

The Council will normally defer enforcement action to allow the outcome of an application to retain the unauthorised development.

5.6 Immediate Action

When we consider there is a clear-cut breach of planning control which the Council considers is causing serious harm to public amenity, the Council will normally take vigorous enforcement action. This may include the service of a Stop Notice or Temporary Stop Notice with, or on the foot of, an enforcement notice, which should bring about the immediate cessation of certain types of unauthorised works.

In all cases where an unauthorised development may become immune from enforcement action then a Notice will be issued, or the matter referred to the Council’s Legal Advisors for summons to issue. (See [Appendix 2](#) for further information on immunity).

5.7 Appeals

Under the provisions of the Planning Act (Northern Ireland) 2011, an appeal may be lodged with the Planning Appeals Commission (PAC) against a Notice issued by the Council. The timescale for hearing an appeal and issuing a determination is a matter for the Planning Appeals Commission. When an appeal is pending, the Council will not normally progress with enforcement action until the outcome of the appeal, but this will be based on the merits of the case and degree of harm caused by the development.

6.0 Our approach to enforcement – priorities and targets

- 6.1 The statutory enforcement scheme affords the Council a wide discretion as to whether to instigate enforcement action when a breach of planning control has been identified

The Council has finite resources and to ensure they can be used in the most effective manner; enforcement cases are prioritised according to the seriousness of the harm caused by the breach.

- 6.2 Priority 1 – Demolition of or works to, a listed building or a building in a conservation area, works to trees protected by a Tree Preservation Order or planning condition.
- 6.3 Priority 2 – All other complaints (*unless they relate to serious amenity issues or result in public danger, or which may result in permanent damage to the environment in which case it may fall into Priority 1).
- 6.4 The above list is not exhaustive and is for guidance only. It is ultimately the responsibility of the Council's Planning Enforcement Officers to prioritise cases taking account of the nature of the breach and the harm being caused or likely to be caused.
- 6.5 Where development is unauthorised and it is expedient to progress with enforcement action, the Council will adopt a proactive approach to planning enforcement. However, the statutory scheme affords the Council a wide discretion as to whether to instigate enforcement action.
- 6.6 As a general guide the Council will apply the following timeframes:
- to submit a planning application (where invited to do so by the council): 28 days
 - to remove an unauthorised structure or building: 6 weeks
 - to cease an unauthorised use of land: 6 weeks
 - to remove unauthorised sign: 10 days
 - to cease a residential use: 4 months.
- 6.7 Where the breach is causing an adverse effect on amenity, the environment, and/or creating a nuisance, these timeframes may be shorter. The Council will also consider if there are special or personal circumstances that would require a longer period for compliance. The timeframes are a matter for the Council to determine but the Council will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances.
- 6.8 Where a deadline is not complied with then proportionate action will progress to secure a remedy to the breach as soon as possible.
- 6.9 The Council will consider extending timeframes for compliance where there has been a change in circumstances or where some progress has been made but a delay has occurred. The Council will also consider whether

granting more time is likely to result in the breach being resolved.

6.10 Where more time is needed, those in breach of planning control are expected to clearly set out in writing:

1. why they need more time;
2. how much time they require;
3. reasons for the delay;
4. evidence of the delay; and
5. evidence of what progress has been made.

6.11 If the request for more time is not made in writing and includes a reasonable justification for a delay, or some progress has clearly not been made, the Council will progress to the next stage in the enforcement process.

6.12 A monthly update on enforcement will be presented to the Planning Committee which will include numbers of cases opened and closed and details of any Notices served. Updates on particular cases can be provided to Members if requested but we will not provide a routine commentary on progress of individual cases. Updates on individual cases will be dealt with in confidential business.

7.0 Performance Targets

7.1 It is a statutory target that 70% of all enforcement cases investigated by Councils are progressed to target conclusion* within 39 weeks of receipt of the complaint.

** For the purposes of this strategy, 'target conclusion' means; case closure, submission of a retrospective planning application, enforcement action or summons to court.*

7.2 For the purpose of delivering a quality service and measuring performance, the Council will adhere to the following range of local Performance Targets as set out below (as far as practically possible).

7.3 The Council will aim to:

- 1) Acknowledge receipt of 100% of all correspondence received through the Planning Portal reporting alleged breaches of planning control or by email, within 3 working days of the date of receipt.
- 2) Site Inspection
Priority One cases: site inspect 100% of cases within 3 working days.
Priority Two cases: site inspect 100% of cases within 20 working days.
- 3) Agree a course of action:
Priority One cases: discuss and agree a course of action for 100% of cases within 5 working days of the site inspection.
Priority Two cases: discuss and agree a course of action for 100% of cases within 21 working days of the site inspection.

4) Closure of Investigation

Notify enquirers of the closure of a case in 100% of cases within 10 working days of the Group Decision.

- 7.4 This simplified method of performance measurement reflects the Council's local approach to enforcement in that it focuses on those breaches of planning control where the greatest harm is being or is likely to be caused.

8.0 Complaints

- 8.1 If you are unhappy about the advice given, action taken or the level of service you have received from the Council's Planning Department, you will be given the opportunity to discuss the matter with the Senior Planning Enforcement Officer in the first instance. If the problem cannot be resolved, you will be informed of the Council's Corporate Complaints Procedure.

Appendix 1:

The Council has the power and responsibility to:

- serve a completion notice (section 64)
- issue and serve a temporary stop notice (section 135)
- issue and serve an enforcement notice (section 138)
- serve a stop notice, (section 150)
- serve a breach of condition notice (section 152)
- serve a fixed penalty notice following non compliance with an enforcement notice or breach of condition notice (sections 153 & 154)
- apply to the courts for an injunction to restrain the breach (section 156)
- apply to the courts for an injunction to restrain any actual or apprehended breach of planning control; any actual or apprehended contravention of sections 85(1) or (5) regarding listed buildings, 126 or 127 regarding trees; or, any actual or apprehended contravention of hazardous substances control (section 156)
- apply to the courts for an injunction to enforce a restriction or requirement imposed under a planning agreement (section 76)
- issue and serve a listed building enforcement notice (section 157)
- vary and withdraw a listed building enforcement notice (section 141 as applied by section 157 (6))
- issue and serve a conservation area enforcement notice (section 157 (applied by section 105(6)) and modified by Regulation 15 and Schedule 2 of the Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015)
- vary and withdraw a conservation area enforcement notice (section 141 as applied by section 157 (6) (as applied by section 105(6)) and modified by Regulation 15 and Schedule 2 of the Planning (Conservation Areas) (Demolition) Regulations (Northern Ireland) 2015)
- issue or vary a hazardous substances contravention notice for a contravention of hazardous substances control (sections 162 & 163)
- enforce measures in respect of the protection of trees that are subject to a Tree Preservation Order (i.e. to replant a tree or trees in relation to the Tree Preservation Order) (section 164).

Appendix 2: Legislative Timescales

Section 132 of the Act defines the statutory time limits for taking enforcement action.

Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 5 years beginning with the date on which the operations were substantially completed.

Where there has been a breach of planning control consisting in the change of use of any building to use as a dwelling house, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach.

In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach.

In the case of the unauthorised display of an advertisement, no enforcement action may be taken after the end of the period of 10 years beginning with the date the breach occurs.