

Planning Enforcement Strategy

1.0 Introduction

- 1.1 The Council's function as the local planning authority for Armagh City Banbridge & Craigavon Borough Council is set out in the Planning Act (Northern Ireland) 2011. The Council's Planning Department will administer these planning functions including the discretionary power to take action against breaches of planning control.
- 1.2 The Council area contains a variety of environments including a historic city, towns and villages, an attractive countryside and inland waterways. The Council is firmly committed to protect these environments (and our communities) from unauthorised development that causes harm or which shows disregard for the planning system.
- 1.3 The purpose of the strategy is to set out the Council's objectives for planning enforcement, priorities for enforcement action and performance targets within the context of the Council's General Enforcement Policy.

2.0 A breach of planning control

- 2.1 The Planning (General Permitted Development) Order (Northern Ireland) 2015 permits specified classes of development, therefore avoiding the need to apply for planning permission. All other development are likely to require an application for planning permission or consent.
- 2.2 A breach of planning control occurs if development is carried out without the required planning permission or if there is a failure to comply with any condition or limitation subject to which planning permission has been granted.
- 2.3 A breach is not a criminal offence, except for unauthorised works to listed buildings, unauthorised display of advertisements; demolition within a Conservation Area without consent, contravention of a Tree Preservation Order or of a Hazardous Substances Control or uprooting, wilfully damaging or carrying out works to trees within a Conservation Area without prior consent. A criminal offence in all other cases only arises when a Notice has been served and has not been complied with.

3.0 General Approach and key objectives to Planning Enforcement

3.1 Under the provisions of The Planning Act (Northern Ireland) 2011 the Council has discretionary powers to take enforcement action when it considers it expedient to do so, having regard to the provisions of the local development plan and any other material considerations.

3.2 In exercising discretion, the Council will be mindful of its duty to enforce planning legislation and to ensure that development is managed in a proactive and proportionate manner. In determining the most appropriate course of action in response to alleged breaches of planning control, Armagh City Banbridge & Craigavon Borough Council will take into account the extent of the breach and its potential impact on the environment. Any decision to proceed with enforcement action will also be informed by case law, precedents and appeal decisions.

3.3 The Council's key objectives for planning enforcement are:

- To bring unauthorised activity under control;
- To remedy the undesirable effects of unauthorised development including, where necessary, the removal or cessation of unacceptable development; and
- To take legal action, where necessary, against those who ignore or flout planning legislation.

3.4 The Council is committed to securing these objectives in order to ensure that the credibility and integrity of the planning system is not undermined.

4.0 Enforcement Priorities

4.1 The Council will investigate all alleged breaches of planning control. However, when determining what (if any) action is to be taken, priority will be given to those breaches where, in the Council's opinion, the greatest harm is likely to be caused.

4.2 The priority given is commensurate with the breach of planning control to which it relates and any action in response to a breach will be proportionate to the harm it causes. The priorities are determined by the Council's General Enforcement Policy principles, which are transparency, accountability, consistency, helping businesses and others to be compliant with legislation, to adopting good enforcement procedures, to work with other agencies and take the appropriate and proportionate form of action following a proper investigation. The priorities which reflect this are as follows:

- 4.3 **High Priority** – works resulting in public danger or development which may result in permanent damage to the environment. For example, unauthorised works to a listed building; unauthorised works to trees protected by a Tree Preservation Order; demolition of a building in a Conservation Area or an Area of Townscape Character.
- 4.4 **Others** – The commencement of building operations without planning permission; non-compliance with conditions of a planning approval, (unless they result in serious amenity issues in which case they will fall into High Priority). Unauthorised works or uses which cause loss of amenity or any other significant public or private impact; and minor breaches that can be regularised, for example, domestic sheds, fences and extensions.
- 4.5 The above list is not exhaustive and is for guidance only. It is ultimately the responsibility of the Council's Planning Enforcement Team to prioritise cases taking account of the nature of the breach and the harm being caused or likely to be caused.
- 4.6 The priority given is reflected in the timescales against which performance is measured.
- 4.7 It is important to note that the vast majority of breaches of planning control are resolved informally through negotiation with the land owner/occupier or through the submission and consideration of a retrospective planning application.

Performance Targets

- 5.0 For the purposes of measuring performance, the Council will adhere as far as possible to the range of Performance Targets as set out below.
- 5.1 The Council will aim to:-
- acknowledge receipt of 75% of complaints within 3 working days and 95% of complaints within 6 working days.
 - site inspect 90% of High Priority cases within 3 working days and 100% within 5 working days.
 - site inspect 75% of all other cases within 20 working days and 95% within 30 working days.
 - discuss and agree a course of action for 95% of High Priority cases within 2 working weeks of receipt of the initial complaint.

- discuss and agree a course of action for 60% of all other cases within 8 working weeks and 95% within 12 working weeks of receipt of the initial complaint.
- bring 70% of all enforcement cases 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.
- notify complainants of case closure in 75% of cases within 2 working weeks, and 95% of cases within 4 working weeks of the decision being made.

5.2 The above method of performance measurement reflects the Council's approach to enforcement in that it focuses resources on those breaches of planning control where the greatest harm is being or is likely to be caused.

6.0 Appeals

6.1 Under the provisions of the Planning Act (Northern Ireland) 2011, an appeal may be lodged with the Planning Appeals Commission (PAC) against an Enforcement Notice, a Listed Building Enforcement Notice, Hazardous Substances Contravention Notice and a Section 164 Notice (replacement of trees). The timescale for hearing an appeal and issuing a determination is a matter for the Planning Appeals Commission. Additional information on the Planning Appeals Process can be obtained from the PAC website www.pacni.gov.uk.

6.2 When an appeal is pending, the decision on whether or not to proceed with summons action will be based on the merits of the case and degree of harm caused by the development. The Notices referred to above shall be of no effect pending the final determination or the withdrawal of an appeal.

7.0 Legislative Timescales

7.1 When considering enforcement action, the Council will bear in mind the statutory time limits for taking enforcement action as set out in Section 132 of the Planning Act (Northern Ireland) 2011.

7.2 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.

7.3 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 on which the breach occurred.

7.4 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 on which the breach.

8.0 Communication

8.1 Within the Council's Planning Department there is ongoing liaison between the development management and enforcement teams. Both in cases where officers are investigating potential breaches of planning control, and when planning applications resulting from enforcement cases are submitted, the relevant case officers from development management and enforcement will liaise closely in order to ensure that all relevant issues are fully considered.

8.2 The Council's Planning Department will work with other departments both within and outside of the Council to obtain information and to ensure effective enforcement of planning control. These departments include Building Control, Northern Ireland Environment Agency, Transport NI, Land and Property Services, NI Housing Executive and Driver and Vehicle Agency. However, it is important to note that the exchange of such information is controlled by regulations such as the Data Protection Act 1998, Freedom of Information Act 2000, Environmental Information Regulations 2004 (EIR).

8.3 The Council's Planning Department will continue to cultivate effective working relationships with all interested parties in order to progress cases to a satisfactory resolution.

8.4 Members of the Planning & Regulatory Services Committee will be provided with Quarterly reports on enforcement cases, in terms of live number of cases; current Enforcement Notices awaiting compliance; number of prosecutions and number of fixed penalty notices served. An update on particular cases will be provided as and when requested by the Committee or an individual Member.

8.5 Any queries on specific cases should be directed to the Council's Planning Enforcement Team, 028 38313684.