Planning Enforcement Charter

Foreword



Councillor Joan Griffiths

Convenor of Planning Committee

The government places a strong emphasis on the role of planning enforcement in delivering key policy objectives and maintaining public confidence in the planning system. The Planning etc. (Scotland) Act 2006 sets out a requirement for councils to produce enforcement charters as a means of raising the profile of planning enforcement and to update it every two years.

As Convenor of the Planning Committee, I will continue to support the work of the Planning Enforcement team in their essential function in the delivery of key policy objectives and maintaining public confidence in the planning system.

This charter sets out the role the Council plays in enforcement, the service we aim to provide and what happens at different stages of the process.

The public also plays a vital role in informing the Council when they suspect there has been work undertaken without planning permission or listed building consent. If you are unsure if work is a breach of planning control you can check this online at City of Edinburgh Planning Portal.

If you believe a breach of planning control has occurred and the work being undertaken should be investigated by an enforcement officer, you can report this using the online form at www.edinburgh.gov.uk/planningenforcement. We know enforcement is an issue that concerns many members of the public and hope that the charter provides reassurance of the commitment of the Council to investigating and resolving planning breaches and providing a robust planning service.

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Introduction

This charter explains the purpose of the Council's planning enforcement service, the process for handling enquiries, and sets out the standards of service we seek to achieve. It also explains where planning enforcement has no remit. Planning enforcement powers are set out in legislation and the use of these powers is informed by Scottish Government guidance (Planning Circular 10/2009). The quick guide below highlights the key points:

A Quick Guide to Planning Enforcement

The purpose of enforcement is to resolve breaches of planning control.	Resolving breaches is about positive outcomes, not punishment, and only a minority of cases require formal action.
Planning enforcement is discretionary.	The Planning Authority will decide whether or not any action is required and **there is no third party right to appeal this decision.**
Any enforcement action must be reasonable and proportionate.	It is reasonable to mitigate harm and protect land in the public interest. It is unreasonable to protect private interests or require unnecessary works to be carried out.
Our decisions are informed by national guidance and case law.	Enforcement decisions must be fair and consistent and formal action can be subject to challenge in a court of law.

The Planning Authority cannot become involved in private, civil disputes or consider formal action where the Council has an interest in the land.

Where there are more appropriate internal services or external organisations who can deal with your enquiry we will refer the matter or advise you accordingly.

The aim of the Charter is to ensure that the Council's procedures are fair and reasonable, that interested parties are made aware of what is required and that they are kept informed at key stages within the enforcement process. The diagram below illustrates the main stages of the enforcement investigation process. Each of these stages are described in detail in the following pages of the Charter.

Enforcement Investigation – Key Stages



Planning Controls

There are three types of planning control against which the Council, as the planning authority, may consider taking enforcement action. Each of these are explained in more detail within this charter, they are:

- Planning Control - relating to development including building works and changes of use,
- Listed Building Control – relating to works to listed buildings,
- Advertisement Control – relating to the display of advertisements.

Where works do not involve development or where they do not affect the character of a listed building, involve the loss of or damage to protected tress, or involve the display of an advertisement, they will not be subject to planning controls or enforcement.

Planning Control

Planning permission is required for most development that takes place in Scotland. Development is defined in legislation and further established in planning case law. Permitted development rights allow a range of works to be carried out without the need to formally apply for planning permission.

The Council has no remit to assess the merits of or consider enforcement action against permitted development.

Similarly, the enforcement service has no remit to revisit or overturn planning decisions, and this includes approved drawings and conditions attached to any planning permission. Concerns with the application process, or with the decision itself would be a matter for the Scottish Courts. These enquiries should in the first instance be directed to the case officer for the application and you may also need to seek independent legal advice.

Breaches of Planning Control

A breach of planning control is defined in legislation and can include:

- Works carried out without planning permission or other required planning consents;
- An unauthorised change of use;
- Departures from plans and drawings approved as part of planning permission or other consent.
- Failure to comply with conditions attached to a permission or consent;

It is important to note that a breach of planning control is not a criminal offence.

Identifying and Reporting Alleged Breaches

The Council relies on members of the public to report potential breaches of planning control. Before reporting a possible breach you should use the Council's online planning service to check if the works have the appropriate consents. If you still believe there is a breach you should submit an enforcement enquiry using the online form.

In some circumstances the Council may take a proactive approach to enforcement where it considers the impact of an unreported breach of planning control is harming public amenity or interest, or where the amenity of a neighbourhood is being adversely affected by the condition of land. This may include:

- Instances where the planning authority becomes aware of unauthorised works, advertisements, signage or development which is having such harmful effects,
- Where planning permission or listed building consent is refused for works or development already carried out,
- For other breaches of planning control otherwise identified by the Council such as non-compliance with conditions, and
- Instances where vandalism of buildings or structures, or very poorly kept land, harm the amenity of a neighbourhood

Anonymous complaints will not be accepted. However, if you have concerns about raising an enquiry, you can ask a local ward Councillor to raise it on your behalf. The Council does not comment on enquiries relating to possible breaches or individual cases on social media.

In accordance with the Environmental Information (Scotland) Regulations 2004 we will treat the identity of enquirers in confidence. We will only release information regarding the identity of an enquirer where it is in the public interest to do so, as a result of a ruling by the Scottish Information Commissioner or if directed to do so by a court of law.

Our Approach to Enforcement

The planning authority has statutory powers to investigate alleged breaches of planning control and to take enforcement action where it is expedient to do so, having regard to the development plan and any other material planning considerations.

It is important to understand that planning enforcement is a discretionary power, and it is for the Council to take a view on whether or not to exercise that power. If the Council determine that it is expedient to take enforcement action, then any such action must be reasonable and proportionate to the breach.

Expediency and Proportionality

This means that even if a breach of planning control has occurred, the Council must consider if it is in the public interest to take enforcement action. In doing so, the Council will consider the level of material 'harm' that the breach is resulting, or is likely to result in. Although not exhaustive, 'harm' in planning terms can include:

- Adverse impacts to public amenity or the use of land and buildings meriting protection in the public interest.
- Adverse impact on visual amenity.
- Loss of protected trees.
- Loss or damage to a listed building and demolition of buildings in a conservation area.
- Adverse impacts on neighbouring amenity including loss of privacy and daylight, overshadowing, and operational noise.

Where it is appropriate to do so, the Council will seek to resolve breaches through negotiation, and it is only a relatively small number of cases which require formal action.

Where there has been a relatively minor breach of permitted development rights it is unlikely to be expedient to take enforcement action and this applies particularly where there would be no discernible difference in the resulting development.

Where a breach involves more substantial unauthorised development and additional planning controls may be required, it may be more appropriate to formally seek the submission of an application in retrospect.

While the Council does not condone any breach of planning control, the aim of the enforcement service is to resolve breaches rather than to punish those who carried out the work.

Council Owned Land

Sometimes breaches of planning control occur on land which is under the ownership and control of the Council. In these circumstances it is not expedient to take formal planning enforcement action, however, the planning enforcement service will work with other relevant Council services to try and secure an appropriate resolution.

Time-Limited Procedures

In some cases, the Council is time-barred from taking enforcement action.

For unauthorised operational development, e.g. building, mining, engineering and other physical works, and the change of use of any building to a single dwelling house the time limit is four years. This means that after a period of four years from the date when operations were substantially complete, the development becomes lawful and no enforcement action can be taken. This could include development such as replacement windows, extensions or the erection of fences and sheds.

For other breaches of planning control including changes of use (other than to a single dwelling house) and breach of conditions, the time limit is ten years from the date of the breach.

Non-Planning Matters

Sometimes the enforcement service receives enquiries about matters that cannot be controlled or conditioned by planning. These may be civil/legal matters or may fall under different legislative regimes. Examples include:

- Private disputes over land ownership/title deeds/right of access/maintenance and common repairs;
- Devaluation of property;
- Loss of private views;
- Competition between businesses;
- Fire Safety;
- On street parking or allocation of parking spaces;
- Building warrants
- Building safety
- Construction noise/arrangements.
- Anti-social behaviour

Any non-planning matters will be outwith the remit of a planning enforcement investigation. However, where appropriate, planning will pass enquiries onto the relevant Council service to investigate.

Other Enforcement Controls

Listed Building Control

Any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest requires listed building consent.

Works carried out without authorisation constitute a breach of listed building control and this is a criminal offence. It is important to note that there is no time limit after which unauthorised works to listed building become immune from enforcement action.

In taking a view on works that are relatively old, the Council will have regard to the nature of the works and whether they have previously given rise to complaints.

It is also important to note that if works to a listed building constitute development then planning permission may be required. Where unauthorised works constitute a breach of planning and listed building control, the Council can take action in respect of either or both breaches.

Advertisement Control

A wide range of signs and advertisements can be displayed without having to apply for advertisement consent if they meet certain criteria and conditions and if the landowner has given permission for the advertisement to be displayed on their land. This is known as deemed consent.

Advertisements which are displayed without authorisation or deemed consent constitute a breach of advertisement control and this is an offence. Adverts which are attached to and affect the character of a listed building will also require listed building consent.

Within Edinburgh, a regulation 11 Order is in place which removes deemed consent for most advertisements on the Royal Mile. This is known as an Area of Special Control. Unauthorised advertisements within the Area of Special Control which result in unacceptable impacts on amenity will be treated as a priority.

It is important to note that planning cannot control the content of any advertisement. This would be a matter for the Advertising Standards Agency.

Monitoring Major Developments

The Planning (Scotland) Act 2019 introduced provision for Planning Authorities to include a statement within their Planning Enforcement Charter setting out how they monitor and record compliance with planning permission for major developments.

It is primarily the responsibility of the developer to ensure they are in compliance with the terms of a permission. Where permission has been granted subject to conditions which prohibit the commencement of development on site, Officers undertake to ensure that these conditions are complied with. Information relating to the compliance with conditions is recorded in the application file and is available to view via the planning portal. This approach is supported by the Council's existing monitoring frameworks for legal agreements and the implementation and delivery of major housing and commercial use sites. Where further guidance relating to monitoring of major developments is brought in to force we will continue to review our processes and will update this statement as appropriate.

Enforcement Service Priorities

The Development Plan provides the policy framework for development across the City of Edinburgh. Unauthorised development which raises significant issues of conflict with the development plan is unlikely to be supported by the Council and may be subject to enforcement action.

Listed Buildings and Conservation Areas

The City of Edinburgh has a rich heritage with over nine thousand Listed Buildings and fifty designated Conservation Areas. The Old and New Towns are designated as a UNESCO World Heritage Site and are recognised for their contribution to European urban planning.

Planning enforcement has a responsibility in helping ensure that the character and appearance of land and buildings which contribute positively to the city's heritage are preserved.

Priority will be given to remedying unauthorised works which:

- Have resulted in unacceptable impacts to Category A listed buildings and listed buildings within the World Heritage Site.
- Have significant adverse impacts to the character of a conservation area.

However, it is also important to recognise that a number of the City's buildings have been altered and adapted over time and this may have already significantly compromised their character. This will be taken into account when considering the expediency and proportionality of any potential enforcement action.

A similar approach will be taken when considering the expediency and proportionality of any potential enforcement action in respect of unauthorised works within a conservation area.

Short Term Lets

The Council recognises the impacts that short term commercial visitor accommodation, short term lets, can have on neighbourhood character and residential amenity.

Planning enforcement will continue to investigate and take action where unauthorised changes of use to short term lets would have a materially detrimental effect on the living conditions of nearby residents, or where there is unacceptable conflict with policies of the Development Plan. Enforcement action will have regard to the designated short-term let control area and Planning Enforcement will work with other Council services to support the implementation of any related licensing scheme.

Trees

It is an offence to carry out works to protected trees that results in their uprooting, felling, lopping or wilful destruction, without the prior consent of the planning authority. This includes trees that are subject to a Tree Preservation Order (TPO), and trees within a Conservation Area. Where protected trees have been removed or destroyed formal action can take the form of service of a Tree Replacement Notice requiring tree replacements. In certain cases, reports for offences in respect of trees may be submitted to the Procurator Fiscal and, if successful, can result in fines up to £20,000.

All enquiries relating to alleged unauthorised work on protected trees will be investigated as a matter of urgency.

Residential Amenity

Where the Council is concerned that a breach of planning control may require immediate action to address serious material harm to residential amenity, this will be investigated as a matter of urgency.

Investigation Process

Registration of your enquiry

When an alleged breach of planning control is submitted, we check it to ensure that it includes all the detail required for a possible enforcement case to be investigated. This must include a full address for the location of the alleged breach (including number and flat position where possible), legitimate enquirer contact details, and a description of the alleged breach and any associated impacts or harm.

It may be necessary to request further information from you before we can register your enquiry. This might include copies of relevant photographs or a more detailed account of the alleged breach and its specific impacts on you.

Your role in the investigation

In your role as the enquirer, we will need you to engage in the investigation process. For detailed investigations and enquiries involving alleged harm to amenity it may be necessary for enquirers to actively contribute to evidence gathering procedures. This can include providing access to your property to carry out appropriate tests, providing written witness statements and participating in interviews. We may also need to involve other Council services where specific impacts of the alleged breach require additional technical assessments to be carried out. Failure to engage with the investigation process may mean we are unable to progress with a detailed investigation and this is likely to result in the case being closed with no further action being taken.

Our service standards identify the key stages in an investigation where we will provide updates on how the case is progressing. While we aim to respond to correspondence which raises additional material considerations not raised in your initial enquiry in accordance with the Planning and Building Standards Customer Service Charter, we may not be able to provide responses to repeat correspondence or correspondence which does not raise concerns of planning harm.

Occasionally, the behaviour or actions of customers using our service can make it difficult for us to deal with their enquiry. If we consider a customer's actions to be unacceptable we may restrict or change access to our service in accordance with the Council's managing customer contact policy. This is to ensure we can protect our staff and the services we provide to our customers.

Unacceptable actions include aggressive or abusive behaviour, unreasonable demands, unreasonable levels of contact, and unreasonable use of the complaints process. Further information can be found on the Council website.

Where insufficient information is provided and where no significant concerns of material harm have been raised, it may not be possible to carry out a detailed investigation.

Where your enquiry concerns purely non-planning matters an investigation will not be opened however your enquiry will be passed to another relevant Council Service where appropriate.

Service Standard

After preliminary checks, enforcement enquiries which have sufficient information will be registered within five working days of receipt and an acknowledgement will be sent to the enquirer.

Initial Investigations

To ensure that we focus our resources on investigating and resolving alleged breaches which are resulting in obvious and significant material harm, cases will be allocated to reflect our service priorities.

In practice, this means that if your enquiry raises genuine planning matters, but the level of material harm is low and any associated impacts do not widely affect public amenity, your enquiry may only be progressed to a detailed investigation when there is sufficient capacity to do so, or, timescales to complete the investigation may be affected. This can include enquiries where the alleged breach:

- is likely to benefit from permitted development,
- involves very minor departures from approved plans, or
- is not widely visible from common or public land.

Once an enforcement case has been set up, an Officer will carry out preliminary investigations and may undertake a site visit. The need and timescales for a site visit will depend on the nature and urgency of the alleged breach and the level of information provided by an enquirer.

Once initial investigations have been carried out, a proposed course of action will be decided as soon as possible. In some cases, a more detailed investigation is required to establish if a breach has occurred, and this can significantly lengthen the process involved in reaching a decision.

Service Standard

You will receive an update within 20 working days of registration of your enforcement enquiry. For cases where no breach has been identified or the breach is minor and does not give rise to significant harm, we will aim at this stage to include notification if no further action is being taken and the case is to be closed.

Actions and Outcomes

Resolving Cases

Resolving cases involves two decisions – i) whether a breach of planning control has occurred, and ii) where a breach has occurred, whether it is expedient to take enforcement action. The decision to take formal action is at the discretion of the planning authority and is a matter of judgement. There is no right of appeal if the Council decides not to take enforcement action.There are three possible outcomes when resolving cases; no further action, informal action and formal action.

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No Further Action

Where there is no breach, or a breach of planning control is identified which is not resulting in material harm and no remedial works are required, it would not be expedient to take any further action and the case will be closed. This can include:

- minor exceedances of permitted development rights,
- minor departures from approved schemes,
- occurrences where the outcome of any enforcement action would not result in a significant gain or benefit.

Service Standard

Where no further action is to be taken we will aim to close the enquiry no later than three months from the date the initial enquiry was registered.

Informal Action

Where a breach of planning control requiring remedial action is identified, and where it is practicable to do so, the Council will seek to resolve the breach through negotiation. This can involve a request to carry out further works. It can be difficult to predict timescales and progress can be delayed for a number of reasons.

For more substantial breaches of planning control where the unauthorised development is likely to be acceptable, but may require modification or control by conditions, it may be more appropriate to seek the submission of a planning application and there are provisions in the Planning Acts for the planning authority to require applications to be made in retrospect. In most cases, potential enforcement action is suspended until the application is determined.

The Council recognises that delays can be a source of frustration to those affected by potential breaches, particularly if they consider their amenity is affected. We will try to keep you informed at significant stages in the investigation process, such as when remedial works are agreed or when a planning application is submitted. To ensure efficient use of our resources, Officers may not be able to provide additional interim updates or respond to follow-up enquiries which do not raise new material concerns.

You will be informed once a final decision has been made and an investigation report will be produced to explain why the case is being closed or why formal action is recommended.

Service Standard

Where informal action is appropriate, we will seek to negotiate a suitable outcome to resolve the breach within 3 months from the date the enquiry is registered. (This may take up to 6 months for Short Stay Commercial Visitor Accommodation cases).

Formal Action

Where unauthorised development is not acceptable, or it has not been possible to resolve the case through informal negotiation, formal action will be taken.

With only a few exceptions, the Chief Planning Officer has delegated authority to proceed with such action without referral to the Development Management Sub-Committee. Formal action is instigated by the service of a notice (see Types of Notice). These all include the following information:

- A description of the breach of control which has taken place;
- The steps which should be taken to remedy the breach;
- The timescales for taking these steps;
- The consequences of failure to comply with the notice; and
- Rights of appeal where appropriate.

The planning authority has additional powers, including the use of interdicts, which complement the serving of notices. Further information is provided on pages 10 to 12 of this charter.

Service Standard

Where formal action is required, we will aim to serve the enforcement notice either within 3 months from the date the enquiry is registered, or within 1 month of the informal action stage where negotiation has not resolved the breach. (This may take up to 6 months for Short Stay Commercial Visitor Accommodation cases).

Where a notice is appealed this will add to the timescale to resolve the breach. If an appeal is successful, the notice will not take effect and the Council may be limited in what further action can be taken.

When a notice has been complied with a closing report will be published on the Planning portal and the enquirer will be notified.

If a notice is not complied with, and it is expedient to do so, the Council may take further action to remedy the breach of planning control, including:

- Prosecution through the Courts;
- Carrying out works in 'default' of an Enforcement Notice. This means the Council may arrange for works to be carried out and then recover the cost of this work from the recipient of the notice. This is known as direct action.

If the recipient of an enforcement notice is found guilty of contravening the notice, a maximum fine of £20,000 may be imposed by the Courts. If the notice is still not complied with, a second prosecution may be sought with a recommendation that courts impose a 'continuance fine' which will apply every day the notice is in breach.

Service Standard

Where a notice has been served we will aim to confirm that it has been complied with within 1 month of the end of the compliance period or, where appropriate, progress any further action within 3 months from the end of the compliance period.

Service Standard

Where a breach of planning control has required informal or formal resolution an investigation report will be published explaining our decision.

Appeals

In most cases, if an appeal is lodged against a notice, it is submitted to and considered by Scottish ministers. In almost all cases appeals are dealt with by Reporters from the Scottish Government's Planning and Environmental Appeals Division (DPEA). There is no appeal against breach of condition notices however these may be challenged in court. There is no provision in planning legislation for enquirers to appeal the Council's decision. Any challenge to that decision would be a legal matter.

Service Standard: We will inform the enquirer within 5 working days of receipt of an appeal against an enforcement notice served by the Council.

Burden on Property

In some circumstances where a notice has not been complied with the Council may decide not to take any action and leave an extant enforcement notice as blight on land/property. This can lead to a delay if a house/land is to be sold and the sellers agents require these breaches to be rectified for the sale to conclude. Where there are any outstanding financial implications registered against land/property that appear on a Councils Property Enquiry Certificate, all sums due to the Council will be deducted from the future sale of that land/property.

Enforcement Register

Details of enforcement notices, breach of condition notices and stop notices are entered into an Enforcement Register, which forms part of the Planning Register. These are available at Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG and on the Council's website.

Enforcement Legislation

Planning Enforcement powers are set out in Part VI of the Town and Country Planning (Scotland) Act 1997; in part VII, regulations 24 to 26A of the Town and Country Planning (Control of Advertisements)(Scotland) regulations 1984; and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Government policy on planning enforcement is set out in Circular 10/2009: Planning Enforcement. The Planning Acts and this publication are available online

Customer Care

The Planning Customer Charter sets out the standards that customers should expect in their dealings with the service. The service is committed to providing high quality customer care and suggestions on how we could improve the service are welcomed. We are committed to dealing fairly, honestly and promptly with any concerns. However, if there has been a service failure, we want to hear from you.

We will consider all complaints made about the way in which your enquiry was dealt with however, disagreement with a decision of the Council will not in itself be a ground for complaint.

The quickest way to sort things out is to talk to the officer concerned. However if you are still dissatisfied, you can use Council's online Complaints Form to receive a formal response. If, after you have gone through our complaints process you still feel aggrieved, you have the right to take the complaint to the Scottish Public Services Ombudsman (SPSO). The power of the SPSO does not extend to the amendment of planning enforcement decisions – the function of the SPSO in planning cases is to judge whether Councils have fulfilled their duties reasonably.

Types of Notice

Breach of Condition Notice

Makes provision for enforcing the conditions to which any planning permission is subject. It is effective on the date of service. It may be used as an alternative to an enforcement notice (see below) and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal against this notice. Those receiving the notice may make representations to the planning authority if they believe the notice to be unreasonable. Summary prosecution in Court is available for contravening a breach of condition notice.

Enforcement Notice

This notice is generally used to deal with unauthorised development but can also be used for a breach of planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An Enforcement Notice will specify a time period to take effect (usually a minimum of 28 days); and will specify what steps must be taken to remedy the breach and the period by which these steps must be completed. There is a right of appeal against an Enforcement Notice, and the terms of the notice are suspended until a decision is reached on the appeal to the Scottish Ministers. Failure to comply with the terms of an Enforcement Notice within the time specified is an offence and may lead to the imposition of a fine in the Sheriff Court.

Fixed Penalty Notices

Where an Enforcement Notice (or Breach of Condition Notice) has been served and has not been complied with, the Council can serve a Fixed Penalty Notice (FPN) on the recipient of the notice. The fine is £2000 for an FPN relating to a planning Enforcement Notice and £300 in respect of failure to comply with a Breach of Condition Notice. There is no right of appeal against these notices, although timeous payment prevents the council from reporting the noncompliance with the original notice to the Procurator Fiscal.

Listed Building Enforcement Notice

This must be served on the current owner, lessee, occupier and on anyone else with an interest in the property, and the procedures involved are similar to those outlined above. The notice must specify the steps to be taken to remedy the breach and specify a final date for compliance. If the current owner fails to meet the terms of the notice by the date specified, they are guilty of an offence. There is the right of appeal to Scottish Ministers against the notice. Breaches of listed building controls are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter or extend a listed building, and this could, in certain circumstances, lead to either an unlimited fine or imprisonment.

Stop Notice

This is only used in particularly urgent or serious cases where unauthorised activity must be stopped. This is usually where there are implications for public safety or a significant impact on public amenity. A Stop Notice is served with an Enforcement Notice. A Stop Notice cannot prohibit the use of a building as a dwellinghouse or prohibit the carrying out of any activity if the activity has been carried out for a period of more than four years. If a Stop Notice is served without due cause, or a subsequent appeal against a parallel Enforcement Notice is sustained, the Council may be open to claims for compensation. The use of Stop Notices therefore needs to be carefully assessed by the Council. There is no right of appeal against a Stop Notice, and failure to comply with its terms is an offence.

Temporary Stop Notices

In certain cases where a breach of planning control is considered to have a severe impact on amenity, a Temporary Stop Notice can be served. These do not require to be accompanied by an Enforcement Notice and last for a maximum of 28 days.

Notice Requiring Application for Planning Permission for Development Already Carried out

Where the planning authority considers that a development which does not have planning permission may be acceptable (i.e. they consider that it might be granted planning permission) they may issue a notice requiring the landowner or developer to submit a retrospective planning application. This application will be considered on its planning merits and handled in the same way as any other planning application. Issuing such a notice does not guarantee that permission will be granted; the planning authority may, on consideration of the application, decide instead to refuse permission, or to grant permission subject to conditions or alterations to make the development acceptable.

Other Powers

Planning Contravention Notice

Used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier of the land in question; on a person with any other interest in the land; or on a person who is using or carrying out operations on the land. Those who receive a Planning Contravention Notice are required to provide specified information about operations being carried out on the land or relating to conditions or limitations which apply to any planning permission granted in respect of the land. Supplementary information or representations on the matters raised in the notice may also be requested. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

Notice under Section 272 (of the Town and Country Planning (Scotland) Act 1997)

Provides limited powers which enable information to be obtained regarding interests in the land, and the use of the land. Failure to provide the information required is an offence.

Notice under Section 179 (of the Town and Country Planning (Scotland) Act 1997)

Provides planning authorities with the power to serve a notice on the owner, lessee or occupier of land, the condition of which is adversely affecting the amenity of the area. The notice, which is also known as an 'Amenity Notice' sets out the steps to be taken to decrease the adverse effect of the condition of the land within a specified period.

Interdict and Interim Interdict

Used to stop or prevent a breach of planning control. Such applications are considered by the courts. Before initiating proceedings, the planning authority will need to assess the likely outcome and the risk of incurring wasted expenditure.

Power to Enter Land

The Council has powers to enter land to find out if there has been a breach of planning control, to check whether there has been compliance with a formal notice, or to check whether a breach has been satisfactorily resolved. This power applies to any land and may involve officials entering land owned by neighbours adjacent to the site of the breach or alleged breach.

Direct Action

Failure to comply with the terms of an enforcement notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

Removal and Obliteration of Placards and Posters

The Council has powers to remove or obliterate placards and posters that do not have express or deemed advertisement consent. If the person who put up the poster can be identified, they have to be given at least two days' notice that the Council intends to take the poster down. If they cannot be readily identified, then the advert can be removed immediately.

Council officials can enter unoccupied land, if necessary, to remove an advertisement. However, they have no powers to remove advertisements displayed within a building to which there is no public access.

Contact Details

Email: planning@edinburgh.gov.uk

Waverley Court

4 East Market Street

Edinburgh

EH8 8BG

Report a possible breach of planning control at:

www.edinburgh.gov.uk/planningenforcement

HAPPY TO **TRANSLATE**

Telephone 0131 242 8181

The City of Edinburgh Council Place Development December 2025