



Enforcement Strategy

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**Mid & East
Antrim**
Borough Council

Enforcement Strategy

1. Introduction

- 1.1. Following the reform of local government on 1 April 2015 Mid and East Antrim Borough Council is the new planning authority for this area. One of the fundamental elements to the planning process is the power to take action against breaches of planning control.
- 1.2. In accordance with the provisions of the Planning Act (Northern Ireland) 2011, the Council has the general discretion to take enforcement action when it is regarded as expedient to do so, having regard to the provisions of the LDP and any material considerations. In exercising this discretion, Council will be aware of its statutory duty to enforce planning legislation and to ensure development is managed in a consistent, proactive and proportionate manner.
- 1.3. Section 131 (1) of the Act states that:
 - a. Carrying out of development without the planning permission required; or
 - b. Failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
- 1.4. Section 131 (2) of the Act states that:
 - a. The issue of an enforcement notice; or
 - b. The service of a breach of condition notice,constitutes taking enforcement action.
- 1.5. The main enforcement powers available to the Council in relation to planning are contained in Part 5 of the Act.
- 1.6. The Planning Policy for enforcement matters is contained within the Strategic Planning Policy Statement for Northern Ireland in paragraphs 5.54 – 5.58.

2. The Purpose of the Enforcement Strategy

- 2.1 The purpose of this Strategy is to set out the Council's objectives for planning enforcement, its guiding principles and priorities for enforcement action and performance targets. This will enable the council's enforcement resources to be put to the best use and provide guidance for enforcement staff.

3. Objectives for Planning Enforcement

- 3.1 The Council's key objectives for planning enforcement are:
 - To bring unauthorised development 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 breach planning legislation.
- 3.2 The Council is committed to securing these objectives in order to ensure that the credibility and integrity of the planning system is not undermined. In many cases the Council will try to resolve the situation through negotiation without allowing the matter to become protracted. This may involve agreeing a compromise or partial change that we are satisfied with. It is at the Council's discretion to decide whether this would be sufficient. If we cannot easily remedy the situation by negotiation, we may take formal enforcement action.



4. What is a breach of Planning Control?

- 4.1 A breach of planning control occurs when building works or a material change of use of land or a building takes place without planning consent. In most cases, it is not an offence to undertake development without consent, but the Council has powers to require these breaches to be put right. Council can do this by requiring changes to be made to the development, by requiring removal of the development, or by giving the development approval if considered acceptable.
- 4.2 Examples of planning breaches include:
- Not building in accordance with approved plans (following grant of permission)
 - Failing to comply with conditions attached to an approval;
 - Unauthorised works to a listed building;
 - Removing or lopping trees protected by a Tree Preservation Order or in a Conservation Area;
 - Display of an advertisement without the benefit of advertisement consent;
 - Changing the use of land without planning permission.
- 4.3 Things which are not a breach of planning control include:
- Internal works to a non-listed building;
 - Clearing land of overgrowth, bushes or tree (provided they are not protected);
 - Where development is 'permitted development', i.e. where it does not require the consent of the Council;
 - Parking commercial vehicles on the highway;
 - Boundary disputes – are a civil matter and cannot be controlled by planning legislation.

5. General Approach to Enforcement

- 5.1 Under the provisions of The Planning Act (Northern Ireland) 2011 the Council has a general discretion to take enforcement action when it regards it as expedient to do so, having regard to the provisions of the local development plan and any other material considerations.
- 5.2 In exercising discretion, 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, 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.
- 5.3 All alleged breaches of planning control will be investigated. However where a complainant fails to provide an adequate level of detail in relation to an alleged breach this may result in enforcement staff being unable to fully investigate or proceed with enforcement action due to insufficient evidence
- 5.4 Personal information will not be released without the permission of the complainant in accordance with the principles of the Data Protection Act 1998; The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (EIR).
- 5.5 All complaints will be prioritised on receipt in accordance with the priorities set out in this strategy. Priority will be given to those breaches where, in the Councils opinion, the greatest harm is being or is likely to be caused.
- 5.6 As enforcement is a discretionary power, the Council will not pursue those minor breaches of planning control where there is no significant harm being caused, or where it is not considered expedient to do so.



- 5.7 A decision to proceed with enforcement action must be agreed by a senior/authorised officer. All actions taken in response to a breach of planning control will be proportionate to the harm being caused and in accordance with council priorities.
- 5.8 Enforcement action may be held in abeyance while a planning application or appeal is being determined depending on the degree of harm and nature and scale of the breach. However, if a case is well advanced and the unauthorised activity/development is considered to be unacceptable enforcement action may proceed.
- 5.9 The Council is unable to provide a routine commentary to complainants on progress in dealing with an enforcement case as this would require resources that are best used on pursuing investigations. Information which may prejudice consideration of a case or judicial proceedings will normally be withheld until the case is concluded. Council will however notify complainants, when a case has been closed.
- 5.10 Enforcement Officers will liaise closely with colleagues in other sections and government departments when it is considered necessary e.g. with the Northern Ireland Environment Agency (NIEA) in relation to waste management and the Department for Communities in relation to Listed Buildings.
- 5.11 Mid and East Antrim Borough Council is committed to resolving all cases involving unauthorised development and using its formal enforcement powers in appropriate circumstances.

6. The Council's Enforcement Priorities

- 6.1 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.
- 6.2 The priority given is determined by the guiding principle that any action in response to a breach of planning control should be proportionate to the harm it causes. The priorities which reflect this principle are as follows:-

Priority 1 (High priority) – Works resulting in public danger or development which may result in permanent damage to the environment. For example, demolition of or works to a listed building, trees protected by a Tree Preservation Order, demolition of a building in a conservation area.

Priority 2 (Other) – Unauthorised works/uses which cause loss of amenity or any other significant public or private impact. Minor breaches that can be regularised for example domestic sheds, fences, extensions.
- 6.3 The above list 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.
- 6.4 It is important to note that the vast majority of breaches of planning control are resolved informally through negotiation with the owner/occupier or through the submission and consideration of a retrospective planning application.
- 6.5 The speed at which a breach of planning control can be resolved will vary depending on the complexity of the individual case and general workloads.



7. Performance Targets

- 7.1 For the purposes of measuring performance, the Councils Enforcement Team will aim to:-
- site inspect 100% enforcement cases within 15 working days .
 - bring 70% of cases to a target conclusion within 39 working weeks (9 months) of receipt of complaint. For the purposes of this strategy 'target conclusion' means case closure, submission of a retrospective planning application, enforcement action or summons to court.

8. Appeals

- 8.1 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.
- 8.2 The Notices referred to above shall be of no effect pending the final determination or the withdrawal of an appeal.

9. Legislative Timescales

- 9.1 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 Act.
- 9.2 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, or where the breach consists of a change of use 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.
- 9.3 In relation to unauthorised works to listed buildings, including demolition and non-compliance with a condition attached to a consent, no enforcement action can be taken in relation to works which occurred before 9th December 1978.
- 2.1. Enforcement action cannot be taken against an advertisement displayed on a site that has been used continually for the preceding 10 years for the display of advertisements without express consent subject to a number of conditions set out The Planning (Control of Advertisements) Regulation (Northern Ireland) 2015 Schedule 3, Part 1, Class 12.



**Mid & East
Antrim**
Borough Council

Mid and East Antrim
Borough Council
1-29 Bridge Street
Ballymena
BT43 5EJ

Tel: 028 2563 5036
info@midandeantrim.gov.uk

www.midandeantrim.gov.uk