A guide to Planning Enforcement

**Statutory Basis:**

Planning enforcement is currently legislated under Part VIII of the Planning and Development Act 2000 AS AMENDED ( soon to be replaced by Part 11 of the Planning and Development Act 2024.

The effectiveness of planning legislation to plan for and manage the development of urban and rural areas is dependent on an enforcement system that can enforce breaches of planning control speedily and efficiently.

**Planning Enforcement** should seek:

* that planning permissions and any conditions attached to the permissions are complied with;
* that, insofar as is practicable, any land is restored to its condition prior to any unauthorised development having taken place; and
* to address breaches of planning control which would have an unacceptable impact on the amenities of an area

**Unauthorised:**

“U**nauthorised development**” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

**“Unauthorised structure”** means a structure other than— (a) a structure which was in existence on 1 October 1964, or (b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act or under section 34, 37G or 37N or 293 of the 2000 Act, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of the 2000 Act).

**“Unauthorised use”** means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of the 2000 Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34, 37G, 37N or 293 of the 2000 Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject.

**“Unauthorised works”** means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of the 2000 Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34, 37G, 37N or 293 of the 2000 Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject

**Process & Procedure**

The legislation sets processes and procedures, including statutory time limits for enforcement proceedings within which complaints of planning infringements must be investigated. It establishes a common procedure for all type of planning offence – issue of a Warning Letter, service of an Enforcement Notice and institution of legal proceedings.

Where a **"Warning Letter"** (S.152) has been issued, the planning authority affords the recipient a statutory four week period to respond and must carry out an investigation into the alleged unauthorised development. If the planning authority determines that unauthorised development has taken place, it must also determine whether the requirements of the warning letter have been met before taking further action.

The planning authority should, where possible, make its decision on further action within 12 weeks of sending the warning letter. Further action will normally take the form of an enforcement notice requiring the person concerned to rectify the situation.

An **"Enforcement Notice"** (S.154) will normally request specific action to be taken within a specific period.

On the expiration of an Enforcement Notice a Planning Officer will visit the site to confirm whether or not the Enforcement Notice has been adhered too.

If the Enforcement Notice has been adhered to, a planning report is prepared and a Decision Memo signed with recommendation issued for the closing of the file and all parties notified of the decision.

Should the Enforcement Notice be found not to have been complied with, then a planning report is prepared and a Decision Memo signed with a recommendation for prosecution under Section 154(8) of the Planning and Development Act, 2000 (as amended).

**7 Year Limit:**

For both Warning Letters and Enforcement Notices the 7 year limit runs either from:

* the date of commencement of development (for development without a planning permission),   OR
* for seven years following the expiry of the planning permission.

**Summary Prosecutions:**

Legal proceedings should initiate with the registered owner(s) of the property.  Where summary prosecutions are instituted, these must commence

* within 6 six months of the offence being committed , OR,
* within 6 six months of sufficient evidence being available to justify, whichever is later.

