



# PLANNING AND BUILDING STANDARDS ENFORCEMENT CHARTER

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# PLANNING AND BUILDING STANDARDS ENFORCEMENT CHARTER FOREWORD



On the whole, both the planning system and the building standards system operate well. Although there are times when things go wrong – developments are not completed in accordance with the approved plans, conditions are not complied with, or ignored; work is undertaken without first seeking the required statutory consents. In these circumstances it is important that alleged breaches are properly investigated and, where appropriate, significant breaches are pursued. Members of the public and community groups have a valuable role in alerting the Council to potential breaches of planning control or works without warrant.

The purpose of this charter is to explain the role of the Planning & Building Standards Enforcement Services, to set out the standards of service to be expected, and to show what happens at each stage in the process.

I hope you will find this Charter informative and of assistance.

**Councillor Simon Mountford**

Executive Member for Planning and Environment.



# PLANNING AND BUILDING STANDARDS ENFORCEMENT CHARTER INTRODUCTION

The Enforcement Service is delivered by a small dedicated team of three officers comprising of the Team Leader and two Enforcement Officers.

The Team Leader - is responsible for the day to day management of the team, enforcement casework, conditions monitoring relating to major developments and the recovery of Development Contributions.

The Enforcement Officers are responsible for dealing with breaches of planning control and non-compliance, as well as works carried out without a Building warrant.

## KEY POINTS

### **Is it a Planning or Building Standards Matter?**

There is a common misconception that planning and building standards enforcement can intervene and resolve all built in the environment matters. Many issues which arise are controlled through separate regulatory frameworks controlled by other agencies or departments within the Council.

### **The following is a small example of matters which the Enforcement team cannot assist with:**

- Civil disputes i.e. neighbour disputes
- Boundary or land ownership disputes
- Conditions on title deeds
- Noise and odour complaints, unless specifically covered by a Planning Condition
- General land maintenance e.g. grass cutting
- Any wildlife Crime under the Wildlife & Countryside Act 1981 (as amended).

If we receive an enquiry which relates to another Council service we will pass on your enquiry to the relevant service and will ask them to contact you directly to confirm receipt.

The main object of planning and Building Standards enforcement is to remedy the undesirable effects of unauthorised development and to bring unauthorised activity under control, ensuring that the amenity of an area is not adversely affected.

# THE CHARTER – OUR COMMITMENT

## TO THE PUBLIC

- We undertake to treat all enforcement cases in a fair and even-handed manner balancing the concerns of the complainant against the rights of the other parties to resolve the situation.
- We will maintain the confidentiality of all correspondents in keeping with data protection legislation and Environmental Information Regulations, at least until a case is referred to the Procurator Fiscal or an appeal is lodged. In such circumstances, it may be necessary to divulge details about complainants.
- Anonymous complaints will not be investigated.
- We will acknowledge receipt, of valid complaints within 15 working days.
- Formal Enforcement procedures will be used in a proportionate manner and in appropriate circumstances, commensurate with level of harm to the amenity of the area.
- You should feel free to contact the case officer or the Team Leader Enforcement, to obtain information about the progress of a case.
- The enforcement team is not in a position to provide general advice or comments on either Planning or Building Standard matters.
- General Advice on Planning matters can be found on-line by clicking the following link: [https://www.scotborders.gov.uk/info/20050/planning\\_applications/524/what\\_needs\\_planning\\_permission](https://www.scotborders.gov.uk/info/20050/planning_applications/524/what_needs_planning_permission) "What needs planning permission? | What needs planning permission | Scottish Borders Council (scotborders.gov.uk)
- General advice on Building Standards matters can also be found on-line by clicking the following link: [https://www.scotborders.gov.uk/info/20049/building\\_warrants/209/how\\_do\\_i\\_apply\\_for\\_a\\_building\\_warrant](https://www.scotborders.gov.uk/info/20049/building_warrants/209/how_do_i_apply_for_a_building_warrant) "How do I apply for a building warrant | Scottish Borders Council (scotborders.gov.uk)

## TO PERSONS UNDERTAKING WORKS

- In situations where the Council believes the contravention was not intentional, every effort will be made to seek a negotiated solution.
- We will in the first instance ask you to provide copies of any photographs you may have and measurements of the works being alleged in the contravention before we prepare a report of our findings. We may, depending on the information available, undertake a site inspection.
- Formal Enforcement action will be taken in appropriate circumstances.
- It is no longer possible to provide updates on how any particular case is progressing. The Case Officer will provide a written explanation once they have concluded their investigation. This explanation will confirm if a breach of planning control or an offence under the Building (Scotland) Act has occurred and will identify what steps, if any, will be taken to resolve the matter.

# OUR SERVICE STANDARDS

We will review our service standards annually. In doing this, we aim to improve our enforcement service and make it responsive to the needs of our customers. We will monitor the contents of this Charter to ensure that standards and targets are reasonable.

We will send a formal acknowledgement of a valid written complaint within 15 working days. The acknowledgement will include a reference number and contact details for the investigating officer. If the matter does not involve a breach of planning control or the Building (Scotland) Act, you will be advised accordingly.

We will endeavor to provide a formal response to a written complaint within 40 working days following registration of the complaint, although this may take longer dependent on the complexity of the case being investigated. You will be advised of the proposed action to be taken by the enforcement service. This may include the need for additional investigation prior to deciding on a course of action. You will be advised if the matter does not involve a breach of planning control or an offence under the Building (Scotland) Act 2003.

We recognise that delays can be a source of considerable frustration to those making a complaint, particularly if they consider their amenity is affected. We will keep members of the public, who have reported a contravention, advised of significant developments in the case e.g. the service of a notice or the closure of the case.

Where a planning breach cannot be resolved and action is justified, we will serve a formal notice. This will be either an enforcement notice or, where a condition of planning consent has been breached we may resolve to issue a breach of condition notice. Depending on the nature of the breach a Stop Notice may also be served. If it is expedient to serve a formal notice, the notice will set out the steps required to comply and the time frame by which the notice must be complied with.

Where an issue under the Building (Scotland) Act 2003 cannot be resolved and action is justified, we will serve a formal Enforcement notice. If it is expedient to serve a formal notice, the notice will set out the various steps and the relevant timeframes required to ensure compliance.



Where it expedient to issue a Stop Notice these will be served on the relevant parties with 15 days, subject to establishing ownership.

Where the terms of any enforcement notice are not complied with, every effort will be made to resolve the breach.

**To do that we will consider the following options:**

- direct action by the Council and / or
- the matter being referred to the Procurator Fiscal for possible prosecution.

**We will give priority to significant breaches of Planning Control and Building Regulations which may include:**

- works being undertaken in contravention of the requirements of an enforcement notice
- irreversible damage to Listed Buildings
- unauthorised works to protected trees in consultation with the Council's Tree Officer
- breaches of condition for major development
- unauthorised development that may lead to substantial and / or permanent damage to sites of National Importance, for example, Scheduled Ancient Monuments
- Unauthorised works which result in life safety implications.

More information about the service the team provides can be found in the – A Guide to Planning and Building Standards Enforcement – which can be found at [https://www.scotborders.gov.uk/downloads/file/2271/guide\\_to\\_the\\_enforcement\\_charter](https://www.scotborders.gov.uk/downloads/file/2271/guide_to_the_enforcement_charter)

# CUSTOMER CARE

We will disseminate information about planning enforcement by publishing and making an Enforcement Charter available to all our customers by means of the internet. Specialist 'in-house' leaflets may be produced to assist complainants, owner / occupiers and businesses that are subject to the enforcement procedure.

We aim to provide a service that is courteous and efficient. Staff will identify themselves by name and provide a contact point and telephone number for future dealings with the organisation.

We will seek to ensure that all communications are in Plain English with interpretation / translation services available when requested.

We will seek to act in a co-ordinated manner with other departments of the Council and with outside agencies, to minimise overlapping actions and time delays.

## MAKING A SUGGESTION OR COMPLAINT ABOUT THE SERVICE

We hope the public will be satisfied with the enforcement service. However, if you have any suggestions, concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any matters requiring attention.

We recognise that there may be occasions when things go wrong and the customer's complaint is the first step in helping to put matters right.

If you wish to make a complaint about the service you have received, please use the link below to take you to the Council's complaints procedure.

[http://www.scotborders.gov.uk/info/20016/have\\_your\\_say/155/make\\_a\\_complaint](http://www.scotborders.gov.uk/info/20016/have_your_say/155/make_a_complaint)

# USEFUL CONTACTS

## FOR ALL ENQUIRES ABOUT THE ENFORCEMENT SERVICE AND ENFORCEMENT INVESTIGATIONS

### TEAM LEADER - ENFORCEMENT

Alan Gueldner | Scottish Borders Council | Council Headquarters  
Newtown St. Boswells | MELROSE | TD6 0SA  
tel: 01835 825090

## FOR COMPLAINTS ABOUT THE SERVICE

### CHIEF PLANNING AND HOUSING OFFICER

Ian Aikman | Scottish Borders Council | Council Headquarters  
Newtown St. Boswells | MELROSE | TD6 0SA  
tel: 01835 826510

PLANNING AND BUILDING STANDARDS INTERNET SITE:

[www.scotborders.gov.uk/info/20012/planning\\_and\\_building](http://www.scotborders.gov.uk/info/20012/planning_and_building)

PLANNING ENFORCEMENT INTERNET SITE:

[http://www.scotborders.gov.uk/info/20050/planning\\_applications/534/planning\\_enforcement](http://www.scotborders.gov.uk/info/20050/planning_applications/534/planning_enforcement)

BUILDING STANDARDS ENFORCEMENT INTERNET SITE:

[https://www.scotborders.gov.uk/info/20049/building\\_warrants/215/dangerous\\_structures\\_and\\_enforcement](https://www.scotborders.gov.uk/info/20049/building_warrants/215/dangerous_structures_and_enforcement)

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#### BUSINESS SUPPORT

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