



## **Planning Enforcement – Complaint Form**

### **Guidance Notes**

#### **Making a Planning Enforcement Complaint**

Falkirk Council require that planning enforcement complaints are submitted using the attached form. Completing the Planning Enforcement Complaint Form will help both you and the Council in a number of ways:

- It will provide us with a written record of primary evidence;
- It will ensure that we have enough information to fully investigate your complaint;
- It will give you the opportunity to register your concerns about the development and its affect on your amenity;
- It will help us to establish priorities and to use resources efficiently.

Carefully read through these guidance notes and the form itself, before you begin to fill it in.

Once you have completed the form, you should return it to the Planning Enforcement Team. You can find the contact details at the end of these guidance notes.

#### **Important:**

**Falkirk Council Planning Enforcement does not normally accept anonymous complaints. Therefore, all parts of the Complaint Form should be completed unless the part does not apply (for example; you have no email address or you do not own a telephone).**

**If details are not provided or the details are insufficient, the form will either be returned to you for more information or placed on file and the case may not be investigated.**

**PLEASE TURN OVER**

## Planning and Enforcement

### Breaches of Planning Control

A breach of planning control can occur if a person undertakes construction work or commences a new use without obtaining planning permission (**Note - some minor works and changes of use do not require planning permission, see \* below**).

Failure to implement a development as approved by prior planning permission or non-compliance with conditions attached to a planning permission may also be considered planning breaches.

**\* Not all works or new uses need planning permission. The Town and Country Planning (General Permitted Development)(Scotland) Order 1992 grants a range of 'blanket' permissions which allow householders and commercial operators to carry out certain works and uses without the need for planning permission, provided certain criteria are met. This means, for example, that many house extensions or new industrial or commercial processes may be 'permitted development' and are not subject to planning control. Even where such development causes harm it may be outside the scope of our enforcement powers.**

### The Enforcement Process

We must act within the framework of legislation and advice provided by the Scottish Executive. This is contained in the Planning Acts and Planning Advice Note 54 – 'Planning Enforcement'.

A breach of planning control is not a criminal offence. A breach only becomes an offence if it continues after an Enforcement Notice has been served and comes into effect. An Enforcement Notice identifies the breach of planning and states what is necessary to remedy the breach (e.g. requires an unauthorised use to cease or a building to be demolished).

However you should be aware that enforcement is a discretionary power and ultimately it is the Council's decision as to whether or not to pursue formal action (i.e. serve an Enforcement Notice).

### Planning Matters - What we can and cannot consider

In deciding whether to take enforcement action we can only take into account matters relevant to land use planning. It cannot be used to protect one person's private or commercial interest against another.

Issues we cannot investigate include:

- Boundary disputes;
- Heights of hedges and trees;
- Internal alterations to houses (except in the case of a listed building);

Similarly, it would not be appropriate for us to take into account matters that are covered by other legislation, for example, complaints of noise or the improper use of the public highway. Such complaints are best directed to the Police or Environmental Protection Service. Any such issues raised will be passed on to the relevant Service.

## Your Name and Address

You should be aware that the subject of your enquiry is public information, but we do not voluntarily disclose your name and address to the public.

## Completing the Form

### Part 1: What has happened?

You should tick the box which best describes the type of breach you wish to complain about. Space is provided in Part 5 of the form for you to provide full details of your complaint.

### Part 2: Site details

Please provide an accurate address as far as possible, preferably including a postcode. If it is an unusual site and you cannot find out its address, you could try providing photographs and/ or locating it on a map.

### Part 3. Do you know who is responsible for the breach?

Usually this will be the owner of the land. If possible, provide the name, address and contact details of the owner. However details of any other person who may be responsible for the alleged breach can also be given – e.g. the occupier, lessee or person/company carrying out works on a site.

### Part 4. Your name, address & contact details

This information is required to enable us to contact you if/ when we need further information, and to let you know what progress we are making. This information will not be used for any other purpose although it may, with your approval, be forwarded to other controlling agencies (e.g. Environmental Health, Building Standards, the Police, etc.) who could assist with your complaint.

You should provide your full name and address including the property number and any flat number, as well as a postcode. If possible please provide a contact telephone number and/or e-mail address.

The support of complainants is important in determining the outcome of an enforcement investigation. If requested we will treat your complaint as confidential during our initial enquiries, however, should the matter end in court action the testimony of witnesses can be critical in securing a successful prosecution. You should therefore be aware that it may occasionally be necessary to ask complainants to appear in court as witnesses for the prosecution.

### Part 5. Details of the alleged breach

Guidance is provided below on the type of detailed information which should be provided for each type of breach described in Part 1 of the complaint form.

**Where there is a need to check if some form of planning permission or consent has been granted, you can contact the Development Management Duty Officer (01324-504748) between 9am and 5pm Monday to Friday.**

You should try to provide as much information as possible. You may want to include additional information such as photographs or a diary of events in order to help the enforcement team get a clearer picture of the breach you are concerned about.

- **Building or Engineering Works:** Have you checked whether planning permission has already been granted, if there are any applications pending or whether the works are permitted development? If development is unauthorised provide details of approximate measurements and any relevant dates of when works commenced and when they were completed.
- **Change of Use of Land:** Has planning permission or a certificate of lawfulness already been granted, are there any applications pending or is the change of use permitted development? Provide any relevant dates of when the use commenced. Has the whole property changed use or is only part of the premises subject to a change of use? Provide full details of exactly how the use has changed.
- **Breach of Planning Conditions:** Provide details of the conditions you consider are being breached and the application reference number (if known).
- **Works Not in Accordance With Approved Plans:** Provide details of the relevant application and preferably refer to specific drawings. Provide detailed information explaining how the works differ from the approved plans. Provide any relevant dates of when works commenced and when they were completed.
- **Development without Listed Building Consent:** Has listed building consent been granted? Provide any relevant dates of when works commenced and when they were completed.
- **Demolition Works within a Conservation Area:** Has Conservation Area Consent been granted? Does it constitute total or substantial demolition (more than approximately 75%)?
- **Works to Trees without Consent:** Is the tree on private land? Is the tree in a Conservation Area? Is the tree protected by a Tree Preservation Order? Has consent for the works already been granted?
- **Unauthorised Advertisement:** Is the advert on private land? Has any advertisement consent been granted? Provide any relevant dates of when the advertisement was erected; specifically, has the advertisement been in situ since before 1st April, 1974? Has the current advert replaced an older advert?
- **Other:** Provide full details of the nature of your complaint with any relevant dates, dimensions etc.

#### **Part 6. How is the Development Affecting Your Amenity or the Locality?**

Provide details of the harm to amenity caused by the breach of planning control - what has prompted you to make this complaint? Please note that we can only consider matters which are relevant to planning.

If you need help completing the form or need information such as reference numbers, you can contact the Development Management Duty Officer on 01324-504748.

Send your completed request form to:

**Planning Enforcement  
Development Management  
Development Services  
Abbotsford House  
David's Loan  
Falkirk FK2 7YZ**