

Parc Cenedlaethol Bannau Brycheiniog Brecon Beacons National Park

PLANNING ADVICE NOTE 8 (Revised April 2017)

PLANNING SERVICES ENFORCEMENT



Introduction

This advice note should be read in association with the Planning Enforcement Charter which was approved in July 2008 (revised in April 2017) and describes the National Park Authority's procedures for enforcing compliance with planning controls. It is a guide for those affected by breaches of planning and listed building control who may wish to know what steps the Authority can take and the timescale involved in achieving a result.

The Authority recognises the importance of an effective planning enforcement service within the National Park and has established a dedicated Enforcement Team which is responsible for investigating reported breaches of planning control and for monitoring new developments (to ensure compliance with approved plans).

However, enforcing compliance with planning controls can be both time consuming and complex. In many cases the Authority will try to negotiate compliance rather than pursue formal action although in those cases where serious environmental damage or harm to the amenities of neighbouring residents is taking place, or where damage is being caused to protected landscapes, trees and/or listed buildings, the Authority will use the full range of its enforcement powers to bring the matter speedily under control.

Whilst it is a criminal offence to carry out unauthorised works to a listed building or a protected tree, it is not illegal or an offence to carry out a development or use that does not have proper planning permission. It is merely unauthorised and no criminal offence has been committed. Only when the Authority has served formal enforcement or similar notices, all avenues of appeal have been exhausted and time periods for compliance have expired, does the person responsible for the unauthorised use or development become liable to prosecution and, if found guilty, acquire a criminal record.

The person against whom an enforcement notice is served has rights of appeal which must be respected and this can result in some delay in securing a resolution of the matter.

The Authority can only use its enforcement powers effectively if there is sufficient evidence available to demonstrate clearly that a breach of planning and/or listed building control has occurred.

The Brecon Beacons National Park Authority's Polices on Planning Enforcement

The Brecon Beacons National Park Authority has an approved Planning Enforcement Charter. The charter should be read in association with Welsh Government Policy as set out in section 3.6 of Planning Policy Wales and the national policy guidance in Section 14 and Section 14 Annexe of the Development Management Manual and Circular 24 /97 (Enforcing planning control: legislative provisions and procedural requirements), which will in due course be incorporated into Section 14 Annex 'Enforcement Tools'.

What is a breach of planning control?

There are two main ways in which a breach of planning control can occur:

- Building works or engineering operations or changes in the use of land or buildings that are carried out without the necessary planning permission.

However, not all building/engineering work or changes of use require planning permission. Many are either considered not to be development at all or are defined as 'permitted development', meaning that an application for planning permission is not necessary. For example, the erection of a small house extension or a garden shed within specified limits may not need planning permission (being classed as 'permitted development').

- Where planning permission has been granted but the approved plans and/or the conditions attached to the approval have not been followed properly.

For example, a building may be larger than shown on the approved plans or a condition that specifies the working hours of a business may have been breached.

To assist in identifying such breaches the Authority liaises with the local authority building control departments. Where a breach is suspected, a site visit will be carried out to ensure the development is in accordance with the approved plans.

How to report a possible breach of planning control

The Brecon Beacons National Park Authority recognises the importance of confidentiality. Personal information provided by complainants will be kept confidential and will not be provided to any other parties.

All suspected breaches of planning and listed building control should be reported to the Brecon Beacons National Park Authority using the electronic complaints system on the Authority's Website [Planning Services Enforcement Complaint Form — Brecon Beacons National Park Authority](#)). The complaints form must include an address, a grid reference or a site location plan and the nature of the alleged breach of planning control, Photographs, and diary logs would also be very useful if they are available. In the absence of internet access, you can ring and request an enforcement complaints form by ringing the Planning Services Helpdesk on **01874 620431** where a form will be sent to you. We rely upon the help of the public to bring such breaches to our attention.

Planning Enforcement Team
Brecon Beacons National Park Authority
Cambrian Way
Brecon
Powys, LD3 7HP

If there is insufficient evidence to support the complaint, the complainant will be notified that the matter will not be registered until the necessary information has been supplied.

BBNPA may not consider taking enforcement action if a complaint is:

- Anonymous
- Malicious in nature
- A Neighbour dispute
- A civil matter
- A non planning related matter
- Being enforced by a more empowered agency and the complaint is a duplicate

What happens next?

Upon receiving a complaint the Authority will:

- Acknowledge complaints within 5 working days from receipt.
- Assess whether the complaint and supporting evidence constitutes unauthorised development (defined under Section 55 of the Act) to warrant an investigation.
- If there is insufficient evidence to support the complaint, the complainant will be notified that the matter will not be registered until the necessary information has been supplied.

- Following receipt of sufficient documentation, the matter will be registered and categorised in line with prioritisation system (continued within the Planning Enforcement Charter).
- Complainants will be notified of case reference and the name of the officer assigned the case
- Investigate the details of the complaint
- Establish whether a breach of planning control or listed building control has taken place.
- Try to negotiate a solution with the “transgressor” if the development/use can be stopped or if there is a possibility that planning permission might be granted.
- Where there is no breach found, the complainant will be notified that no action is proposed.
- Where a breach has occurred, we will gather sufficient robust evidence as necessary to be satisfied that formal action is justified.
- Consider the expediency of taking formal enforcement action having regard to the development plan and all other material considerations.
- If the Authority does not consider that formal enforcement action is expedient then the complainant will be notified in writing of the reason/s why the Authority is not taking any further action.

Why can enforcement action take so long?

Many of the reasons have been explained above but it is often frustrating to complainants that despite contacting the Authority, the activity which is causing concern still persists. Some of the factors which can result in apparently slow progress include:

- the gathering of satisfactory robust evidence;
- continuing negotiation to try to resolve the matter with the offender without pursuing formal action;
- consideration of an application seeking to remedy the matter; and
- awaiting determination of an appeal against formal Notices.

Complaints about the Planning Enforcement Service

All complaints relating to the Planning Enforcement service will be acknowledged by the Authority within five working days. All complaints will be fully investigated by the Authority and the complainant will receive a written response within 20 working days of receipt of the complaint.

In the first instance, all Planning Enforcement complaints should be addressed to:

Director of Planning
Brecon Beacons National Park Authority
Cambrian Way
Brecon
LD3 7HP

If a complainant remains dissatisfied with the written response from the Director of Planning, then details will be supplied for pursuing the complaint further through the Authority's Complaints Officer in accordance with the Authority's formal corporate complaints procedure. The Authority will always strive to resolve a complaint locally but if this is not possible then the complainant will be advised on how to pursue the matter further with the Commissioner for Local Administration (the Ombudsman).

Freedom of Information

The Freedom of Information Act 2000 gives a general right of access to information held by public authorities. The Authority holds much information including information relating to pre-application advice, planning applications and appeals. The presumption will always be in favour of disclosure of such information. This is because it is important for the Authority to promote accountability and transparency in the planning process and to allow individuals to understand views expressed and the reasons underlying decisions that have been taken.

In terms of enforcement complaints, with the exception of complaints relating to irreplaceable assets, anonymous complaints may not be investigated. Your details will be treated in strictest confidence and are exempt from disclosure under section 30 of part II of the Freedom of Information Act. However, in certain cases you may be asked to assist the Council by providing evidence at an appeal or in Court. Before this happens the Case Officer will ask for your consent. If you are unwilling to give your consent it is possible that the Authority would be unable to take further action.

Where the Authority does refuse a request to disclose information under the Act, a written explanation will be provided setting out the exemptions relied on by the Authority for withholding the information and the relevant appeal procedures.

For further information contact:

Brecon Beacons National Park Authority
Plas y Ffynnon, Cambrian Way, Brecon, LD3 7HP
Tel: (01874) 624437
Fax: (01874) 622574
Email: planning.enquiries@beacons.gov.uk