



## Unauthorised Development Guidance Note

Before reading this Guidance note and completing a Complaint Form, we encourage you to read and review the below links on our website:

- [Exempted Development](#); and
- [Enforcement Process](#).

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### 1. What is Clare County Council's planning enforcement role regarding unauthorised development

Upon receipt of a completed 'Unauthorised Development Complaint Form', we investigate the alleged unauthorised development and where necessary, take enforcement proceedings, as best required, against offenders.

### 2. When should I fill out this Complaint Form

If you are concerned about the following:

- A development has no obvious planning permission
- A development that does not comply with the conditions of the planning permission
- A development that does not conform with the consented planning permission drawings
- A development is not [exempted development](#).

### 3. When should I **NOT** fill out this Complaints Form

In accordance with [Section 152 of the Planning and Development Act 2000, as amended](#), complaints received by the planning authority in relation to an alleged unauthorised development must **not** be vexatious, frivolous or without substance or foundation. Such complaints will be dismissed.

You should **not** fill out this form if the complaint(s) pertain to civil matters (see below for further detail). The planning authority have no powers in these areas as they are outside the scope of planning legislation. You should seek legal and/or professional advice for all matters regarding:

- Land or Ownership disputes
- Trespass
- Private nuisance (noise, vandalism)

In addition, Planning Enforcement will **NOT** investigate matters which lie outside its scope including matters to be addressed by other Directorates and Agencies such as:

#### Civil Matters

- Encroachment
- Private rights of way
- Trespass
- Civil boundary disputes
- Noise nuisance (unless the noise breaches a condition attached to a consented planning permission)
- Structural damage to private property resulting from construction works
- Matters related to 'private drains'
- Outlets associated with boilers and other gas appliances (unless same has a material visual impact from a public area)
- Other types of private nuisance.



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### Matters Addressed by Other Directorates/Agencies

- Building Regulations (Building Control Division).
- Hoardings, signage, table/chairs, and other structures in the public roadway or on footpaths (Roads Control Division).
- Neglect/Endangerment of Protected Structures.
- Parking complaints (except when such parking breaches a condition attached to planning permission or relates to an unauthorised carpark). Illegal parking in a Disc Parking Area can be referred to the Transportation Division; other illegal parking (on double yellow lines, etc.) can be referred to the Gardai.
- Blocked Public Sewers (Drainage Division).
- Noise, Litter/Illegal Dumping, Water Pollution, Other Environmental Matters (Environment Directorate).

#### **4. Having reviewed the exempted development section of the [Councils website](#), I am satisfied that my complaint is about a planning breach. What do I need to do?**

You are required to provide as much information as you can provide to assist us to carry out an investigation. You should have all the following information:

- The name and address of person(s) or company carrying out the alleged unauthorised development. This enables us to send Warning Letter(s) or other correspondence to the correct person or company.
- An accurate description of the alleged unauthorised development.
- Photographs of the alleged unauthorised development would also be helpful to show the matters which are of concern to you.
- A map highlighting the location of the alleged unauthorised development. This helps our staff to locate and investigate the development on the correct site. The Council's online [Planning Enquiry System](#) or [Google maps](#) can provide a suitable map.
- The planning permission reference number where relevant. The Council's online [Planning Enquiry System](#) can be searched for relevant information.
- The date the alleged unauthorised development started. This is necessary to determine if enforcement action can be taken.

A copy of the Unauthorised Development Complaint Form can be downloaded [here](#).

#### **4. What happens after I complete and submit the Complaint Form?**

Upon receipt of a submitted complaint, the Planning Enforcement section will decide if the complaint warrants the opening of an enforcement case file. If the complaint pertains to civil matters or is deemed to be vexatious, frivolous or without substance or foundation, an enforcement case file will **NOT** be initiated.

Where the Planning Enforcement section determines unauthorised development has occurred, we will:

- Contact you if we need further information from you.
- Undertake an initial inspection and decide whether to issue a 'Warning Letter' to all individual/s in question.
- Notify you of our decision to issue, or not to issue, a Warning Letter
- Consider responses, if/as received to the Warning Letter as issued.



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- Take further action, if/as required and depending on findings the Planning Authority's investigation.

Please read the [Enforcement Process](#) section of our website for further detail on enforcement steps and procedures.

### 5. Will the Planning Authority contact me after I have lodged a complaint?

Yes, and **ONLY** at relevant case file stages as follows:

1. Upon receipt and review of your submitted complaint, we will then contact you with:
  - Notification that an enforcement file is to be opened, and we will provide you with a case reference number. This case file reference must be quoted on all correspondence to the Planning Authority; or
  - Notification that planning enforcement, upon review of the complaint, has determined the respective matter is either exempt development, vexatious, frivolous or without substance or foundation. Such complaints will be dismissed. We will issue correspondence confirming this to you.
2. Where a complaint proceeds with planning enforcement, we will notify you at the next relevant stages, whereby:
  - A Warning Letter has been issued; and/or
  - An Enforcement Notice has been issued.

Please note the planning authority may not be able to respond to queries outside the above outlined stages.

However, you should write to us immediately if you become aware of new information or if new unauthorised development occurs on the site.

### 6. Identity confidentiality

Please note that your details will be treated as confidential. It is the policy of Clare County Council not to release these details under the [Freedom of Information Act 2014](#) but the Council cannot however, give absolute guarantees on this as a request under the Freedom of Information Act can be appealed by requesters to the Information Commissioner.

### 7. Is there anything else that I need to know?

Under the Planning & Development Act, 2000, as amended, if it is found that the development, although unauthorised has been in existence for a period of 7 years or more, the Planning Authority cannot take enforcement action as it is deemed to be "statute barred".

For further information regarding unauthorised development and planning enforcement, please refer to the Office of Planning Regulator Guidance Note [Planning-Leaflet-6-A-Guide-to-Planning-Enforcement-in-Ireland.pdf](#)