



# Planning Enforcement Charter

Revised *May 2024*



## Foreword

Development within Perth and Kinross contributes towards the Council's objectives and priorities for the area, as expressed through our [Corporate Plan 2018-2022](#). [2022/23-2027/28](#). Planning Enforcement plays an important role to uphold this contribution and to maintain public confidence in the planning system, by ensuring that the intended benefits of development are realised and our natural and built assets are protected.

This Charter sets out Perth & Kinross Council's approach, as Planning Authority, to planning enforcement; which places the public and all stakeholders in the planning system at the core of what we do. We therefore set out what we can and cannot do, explain the processes involved and make a commitment on the level of service we aim to provide. We value public input in this process and, as such, we endeavour to make the reporting of possible breaches of, and engagement within the planning system, by the public accessible to all.

You can report a suspected breach of planning control using our online [Breach of Planning Control Report Form](#) or by submitting an email to us:

Email [PlanningEnforcement@pkc.gov.uk](mailto:PlanningEnforcement@pkc.gov.uk)



If you are unsure about whether the development or work carried out is a breach of planning control, you can check what does and does not need permission on these webpages:

[www.pkc.gov.uk/article/15035/Planning-Enforcement](http://www.pkc.gov.uk/article/15035/Planning-Enforcement)

[www.pkc.gov.uk/article/14991/What-needs-planning-permission-](http://www.pkc.gov.uk/article/14991/What-needs-planning-permission-)

You can check to see if a development has a valid planning permission or other required consents by using our [Online Planning System](#).

# Contents

<b>The Planning Enforcement Service</b>	<b>4</b>	<b>Investigating Possible Breaches of Planning Control</b>	<b>10</b>
<b>Our Approach to Planning Enforcement</b>	<b>5</b>	Registration of Your Observation	10
<b>Priorities for Planning Enforcement</b>	<b>6</b>	Initial Investigations	10
<b>Stages of the Enforcement Process</b>	<b>6</b>	<b>Resolving Cases</b>	<b>11</b>
<b>Reporting a Breach of Planning Control</b>	<b>7</b>	<b>Acting on Breaches of Planning Control</b>	<b>12</b>
<b>Breaches of Planning Control</b>	<b>7</b>	Informal Action and Discretion	12
<b>Other Enforcement Controls</b>	<b>8</b>	Formal Action	12
Listed Buildings and Conservation Areas	8	<b>Appeals</b>	<b>13</b>
Advertisements	8	<b>Further Information</b>	<b>13</b>
Trees	8	Enforcement Register	13
Trees - Other Controls	8	Time Limits for Enforcement	13
High Hedges	9	<b>Customer Care and Complaints Process</b>	<b>14</b>
<b>Matters That Cannot Be Considered by the Enforcement Officers</b>	<b>9</b>		
Non-Planning Matters	9		



## The Planning Enforcement Service

Planning permission is required for most forms of development unless it is classed as 'permitted development'. When development or work is undertaken without permission, or not in accordance with an approved permission or consent, discretionary powers are available to the Council to investigate and take enforcement action, when it is in the public interest to do so. It is for the Council to decide whether to take enforcement action, based on the significance of the breach and any impacts or planning harm.

It is the role of the Planning Enforcement team to carry out these duties. A comprehensive guide to Planning Enforcement can be found in the [Scottish Government's Circular 10/2009](#).

This Charter outlines how the planning enforcement system operates and what can be expected of the service provided by the Council. Planning Enforcement Charters are a statutory requirement for Planning Authorities to regularly maintain and review when needed, but to at least review every two years.

This Charter explains the role of the Council and how enforcement process works and sets out:

- the Council's role and policy on taking Planning Enforcement Action, including our priorities and the service standards you as a customer (both those who report breaches or who are being investigated) can expect;
- how customers can bring any breach of planning control to the attention of the Council;
- explains what happens at each stage of what can sometimes be a lengthy process; and
- how any complaint about the Council taking enforcement action can be submitted and how it will be dealt with.

We continually monitor the implementation of the Charter to ensure that standards are being met and priorities are being addressed. As part of this review process, we publish an [Annual Planning Enforcement Report](#) on our performance. This Charter reflects this review process since our last charter was published in January *2021*.



## Our Approach to Planning Enforcement

Perth & Kinross Council's approach to planning enforcement is not to punish but to come to a conclusion on how to progress, wherever possible using negotiation in the first instance. If it is considered that the issue must be addressed, planning permission is required, and that it is not proportionate to advise the property owner that they should seek that permission or they do not exercise the right to make an application, then formal action may be taken. As a discretionary power, however, the Council needs to consider in each case if enforcement action is justified and whether or not to take action. It is important to clarify that the Council is not required to take any particular action and may decide, in some cases, that not acting is justified and proportionate. **The Council will however make decisions which:**

- **Accord with the Council's corporate priorities;**
- **Reflect Development Plan policy objectives;**
- **Reflect Scottish Government guidance; and,**
- **Recognise the Cost of Living Crisis.**

We will produce a Closing Report at the end of investigations explaining our decision reasoning.

Scottish Government guidance on the use of enforcement powers is provided in **Circular 10/2009 'Planning Enforcement'**. This guidance explains, among other matters, that Council's should not take enforcement action just to address a breach of planning control, if the development is otherwise acceptable in planning terms and taking a sensitive to the impact of enforcement action on small businesses. The primary aim for seeking retrospective planning consent is normally to secure ongoing controls through the imposition of planning conditions.

*Our Planning Enforcement team undertake focused monitoring, particularly of major or significant developments to ensure compliance with conditions and legal agreements associated with planning permissions.*

*When a monitoring record is opened, or when a justified complaint about a breach of planning control is received these will appear online on our PublicAccess system. This allows the public and interested parties to review basic information and any significant updates. However, the online case will never disclose who the complainant is.*

*Ultimately, we seek to ensure that effective action is taken against breaches of planning control, particularly where these have significant adverse impacts on the environment or on communities. We also seek to update relevant parties in a timeous manner. Accordingly, we set out our **Priorities for Planning Enforcement** overleaf.*

## Priorities for Planning Enforcement

Whilst we will consider all observations of suspected breaches of planning control, including non-compliance with planning conditions and obligations, our priority will be to direct resources to significant or harmful matters including:

Significant detrimental impacts on **matters of environmental importance**, especially on sensitive or protected environments.

Matters of **pedestrian and traffic safety**.

Significant detrimental impacts on **residential amenity**.

Significant detrimental effects on **public visual amenity**.

Significant breaches of condition or the terms of a legal agreement in respect of a **major development** or development where there is a **significant level of community interest**.

Damage or Works to **Listed Buildings** and works which adversely affect their

Breaches of planning control within designated **Conservation Areas**, particularly where improvement schemes have been promoted by the Council.

Unauthorised felling of or works adversely affecting all trees protected by (**Tree Preservation Orders, Conservation Areas and where planning conditions apply**).

Breaches of planning control which undermine a **Council priority, policy or programme**.

Based on the principles within the Scottish Government's Circular 10/2009 and the Council's wider policies, **we will act sensitively and proportionately when taking enforcement action if that action would affect the economic wellbeing of a business**.

## Stages of the Enforcement Process

### Breach Reported

- Provide as much information and details as possible.
- Describe the harm/impacts.
- Provide your contact details.

### Investigation

- Is it a planning matter?
- Is it a breach?
- Information gathering.
- Negotiation and resolution.

## Action and Outcomes - We decide whether to act

### No Further Action

If no breach, minor breach or a lack of harm.

### Informal Action

Negotiation to remedy the breach or reduce the harm.

**Invite retrospective planning application**  
Planning permission may be approved.

### Formal Action

**Serving a Notice** resulting in removal of unauthorised development.

**Seek penalties** fines or prosecution.

## Reporting a Breach of Planning Control

When a breach of planning control is received or identified, there are two decisions for the Planning Enforcement team:

- whether a breach of planning control has taken place; and
- if a breach has occurred, whether it is expedient to take any enforcement action.

As advised previously, the decision of whether to act is at the discretion of the Council and is a matter of judgement, having regard to planning facts and circumstances of the case. Any action taken must be in the wider context and be proportionate to the impact.

If you believe work or development being carried out is a breach of planning control, you can submit this to us through our interactive [Breach of Planning Control Report Form](#). Alternatively, you can contact our [Customer Service Centre](#) : **01738 475000** or email **XXXXXXXXX**. All reports are handled confidentially.

When reporting a breach, you should:

- provide your contact details (preferably an email address);
- provide or describe the address/location;
- explain the nature and extent of the development/works;
- state when the development/work started or was completed;
- detail the owner and/or who might be undertaking the works;
- list any relevant planning permissions;
- provide photographs of the development/works; and
- provide any other information you consider relevant (such as dimensions, hours of any activities, online information like business websites etc).



## Breaches of Planning Control

Planning breaches include:

- work being carried out which requires planning permission or a related consent;
- an unauthorised change of use;
- failure to comply with conditions attached to a permission or consent; and
- departures from drawings or documents approved as part of a planning permission or other consent.

We do undertake proactive monitoring of approved developments; however, it is not possible, to monitor every development.

Consequently, the public play an extremely important role in alerting the Council to, and providing information on, any possible breaches, whether or not that development has planning permission.

Possible or known breaches are often identified by the public when purchasing a property, through the conveyancing process, via [Property Enquiry Certificates](#) which provide information on any planning notices that affect the property or land. The sales process is often a good opportunity to remedy existing breaches between the seller, buyer and the Council. Unresolved breaches of planning control can hinder or stop the sale, so the Council encourages all property owners to remedy breaches, even where it has decided that PKC will not take formal enforcement action.

You can check to see [what needs planning permission](#) on our website. You can also see if the developer already has planning permission and/or other consents in place, as well as any conditions that are attached to these, by using our [Online Planning System](#).

## Other Enforcement Controls

Other planning enforcement related matters can be reported to us, through our [Breach of Planning Control Report Form](#), so we can investigate whether a breach or offence has taken place. These include:



### Listed Buildings and Conservation Areas

The enforcement rules that apply to **Listed Buildings**, demolitions and works in a **Conservation Areas** are set out in the [Planning \(Listed Buildings and Conservation Areas\) \(Scotland\) Act 1997](#) and associated regulations. Unauthorised works can lead to a Listed Building Enforcement Notice being served and such unauthorised work can constitute a criminal offence, which could result in a £50,000 fine and/or a custodial sentence of up to 6 months.



### Advertisements

Different procedures again apply when compared to development. Adverts are regulated through the [Town and Country Planning \(Control of Advertisements\) \(Scotland\) Regulations 1984](#). These controls relate to the form and siting of adverts only and we have the ability to serve Advertisement Enforcement Notices. The actual **content** of an advertisement **is not** covered by planning control and any complaints about this should be made to:

The Advertising Standards Authority  
Mid City Place  
71 High Holborn  
LONDON  
WC1V 6QT  
or by visiting [www.asa.org.uk](http://www.asa.org.uk)



### Trees

Under S171 of the [Town and Country Planning \(Scotland\) Act 1997](#), it is an offence to carry out works to trees subject to statutory protection that results in their uprooting, felling, lopping or wilful destruction, without the prior consent of the planning authority.

Formal action can be taken against persons who have carried out unauthorised works to trees covered by a Tree Preservation Order (TPO) or a tree(s) being within a Conservation Area. Where protected trees have been removed or destroyed this can see a Tree Replacement Notice served requiring new tree planting. In certain cases, offences reported to the Procurator Fiscal and, if successful, can result in fines up to £20,000.

### Trees - Other Controls

In addition to planning controls, you may need a Felling Permission from Scottish Forestry. Further guidance on this process, and details of works exempt from needing approval, can be found at:

<https://forestry.gov.scot/support-regulations/felling-permissions>





## High Hedges

The Council's enforcement powers include the ability to serve a High Hedge Notice under the **High Hedges (Scotland) Act 2013**. This allows a resident whose amenity is severely affected by a high hedge to formally apply to the Council to have a notice served on the 'hedge' owner to remove or reduce the adverse impact of the high hedge. The owner has the right to appeal any Notice, as does the applicant where a notice is not served. Non-compliance with a Notice can see PKC undertake works directly.

Further information on our approach and remit for **High Hedges** can be found on our website.

**NOTE:** High Hedges applications will be determined in accordance with their own statutory process and timescales, and, as such the **Service Standards** set out within this Charter do not apply.

## Matters That Cannot Be Considered by the Enforcement Team

### Non-Planning Matters

Where an enquiry relates to non-planning matters, these cannot be investigated or addressed through Planning Enforcement. Issues which must be addressed by the individuals involved include neighbour disputes or civil issues such as:

- **the ownership of land:** if someone has undertaken development on your land, we can only consider the requirement of planning permission and need for enforcement action. If formal action is to be taken, the planning authority is required to serve an enforcement notice on the owner of the land (i.e. yourself), as well as other interested parties. For this reason, you should seek your own legal advice on how best to address the issue; or
- **connection to utility services:** when applying for planning permission, developers are required to confirm to the planning authority what water or sewerage connections are required for the proposed development. However, provision of these services is a civil matter and/or a matter for any statutory undertaker to approve any such connections and investigate any associated

If your enquiry relates to another function of the Council, we will direct this to the appropriate department. If unauthorised works or development are being undertaken on a council owned property, you should report these works to the relevant department such as housing, education or estates in the first instance.

## Investigating Possible Breaches of Planning Control

The Council will always treat information about the identity of people who report breaches to us in confidence and will only disclose it when required to do so by law.

We do encourage you to provide your name and contact details, as we may require further information from you as the investigation progresses or to understand the impacts of the breach and how it affects you. This also allows us to keep you informed of progress and the outcome of our investigations.

Where an anonymous observation is received, we reserve the right to choose not to investigate. Where it relates to one of our priority areas, or it is judged to be in the public interest, we are more likely to investigate breaches that have been reported anonymously.

### Registration of Your Observation

When we receive an observation, we first check that it includes all the information we need for an enforcement case to be investigated. Where an enquiry relates to non-planning matters, such as neighbour disputes or other civil issues, these cannot be investigated by the Council. If your enquiry relates to another function of the Council, we will direct this to the appropriate department. *Upon a justified complaint being received, a case will be opened and published on our PublicAccess system.*

### Service Standard - 1

After preliminary checks, we will register your enforcement observation and you will receive either an email or written confirmation of this within 5 working days from receipt. This acknowledgement will, if justified and considered a breach of control, include the reference number for the case as well as the contact details of the

### Initial Investigations

Following registration, an Enforcement Officer may visit the site to investigate. The timescales for this will depend on factors such as the type and significance of the issue. The Council has legal powers to enter land or property in order to identify if a breach of planning control has taken place. The same powers are available throughout the process for the purposes of investigation or assessing compliance with any enforcement notices served (see '**Resolving Cases**' overleaf).

### Service Standard - 2

Where a site visit is required we will undertake this within 15 working days from registration of a case, unless further actions are required (see below).

In some cases, we may require further information from you about the suspected breach, such as photographs or evidence of development or activity, before or instead of visiting the site. Additional investigation at this stage may also be required for some cases to establish if a breach has occurred, such as utilising our legal powers to seek information from the developer(s) about the use of land and/or parties that have an interest in the land. This can include us serving a Planning Contravention Notice (PCN). The serving of notices for this purpose may lengthen the process and, if this is required, this will be explained to you where possible.

### Service Standard - 3

You will receive a follow-up response to your observation within 20 working days of receipt. This will advise of any provisional findings and, where relevant, detail the proposed course of action for the case, which could mean formal enforcement action being taken. Communication will also be made at this stage with the Developer on our findings and possible action.

You may also be advised at this stage if the observation does not constitute a breach of planning control or is not a planning matter - either of which will result in your case being closed. We will set out in writing our reasoning for all cases closed in a Closing Report.

## Resolving Cases

Where a breach of planning control is identified and we provide an undertaking to resolve it to address significant planning harm, through informal or formal means, we will do this as quickly as possible. It is advised, however, that progress on the case can be delayed for several reasons; such as the collection and verification of information which could be over a period of time, so negotiations could take place or where formal procedures are organised.

The resolution to a breach may be through a planning application or other consents (such as Listed Building Consent) being submitted to regularise the breach. Where the development is likely to be acceptable, the Council may seek the submission of an application in retrospect as a valid means of assessing the development and possibly addressing the breach. A formal decision will be made through the planning application process. You will, however, have the right to make representation on the application, which is separate to any breach reported. The application process will increase the timescales for the enforcement case.

### Service Standard - 4

Where works or development has been carried out without planning permission, but we consider that the development is likely to be acceptable in terms of Development Plan policy, we may invite an application or we may serve a notice under Section 33A of the Planning Act that requires the developer to submit a planning application retrospectively.

Where we previously advised that a conclusion to a case has not been reached, we will keep you informed of the progress with the case or notify you its conclusion. If at any point we decide that further action is not justified, we will inform you of this and the reasons for that decision. In some cases, it may be inappropriate to regularly provide an update on the progress of enforcement action, particularly when the matter proves difficult to resolve quickly. You will be advised accordingly in such circumstances.

### Service Standard - 5

We will either conclude the case within, or provide an update to you, within 40 working days from receipt of your observation.

When an enforcement case is being closed, a Closing Report will be prepared which will explain why we have come to a decision. This report will be made publicly available.

## Acting on Breaches of Planning Control

### Informal Action and Discretion

It should be noted that, even though planning controls have not been followed, in some cases formal action may not be appropriate. Furthermore, most breaches of planning control are resolved informally. The Council is obliged to use its discretion when considering action and be proportionate with formal powers. Each case must be considered on its own merits and the best solution in the circumstances must be decided. Only a relatively small number of cases require formal enforcement action, where we will serve a notice.

### Formal Action

If we are unable to resolve a breach through informal measures, or through a planning application, where justified we may take formal enforcement action and serve a notice. This will normally be either an Enforcement Notice or a Breach of Condition Notice. In some cases, a Stop Notice or a Temporary Stop Notice may be appropriate. Notices will clearly explain what is required, the timescales involved and the available options to resolve the issue. *Any notices served will be available for viewing online on our PublicAccess system.*

It should also be noted that an enforcement notice will be legally associated with the building or land to which it relates until its provisions have been fully discharged. This will be highlighted in any Property Enquiry Certificate issued when a property is being sold.

The type of notices we can serve and when they can be served is fully explained in the [Scottish Government's Circular 10/2009](#). In summary, the Council's powers include the ability to issue a **Temporary Stop Notice** to stop development. These Notices are valid for up to 28 days and are effective from the time they are served, without requiring that an Enforcement Notice be served first. This allows the Council 28

days to consider the situation before a formal Enforcement Notice and Stop Notice, if necessary, require to be served.

In most cases where a breach merits formal action, an **Enforcement Notice**, or other such as a **Listed Building Enforcement Notice**, **Breach of Condition Notice** or **Amenity Notice** is served on those involved in the development or who own or have an interest in the property. These notices include the following information:

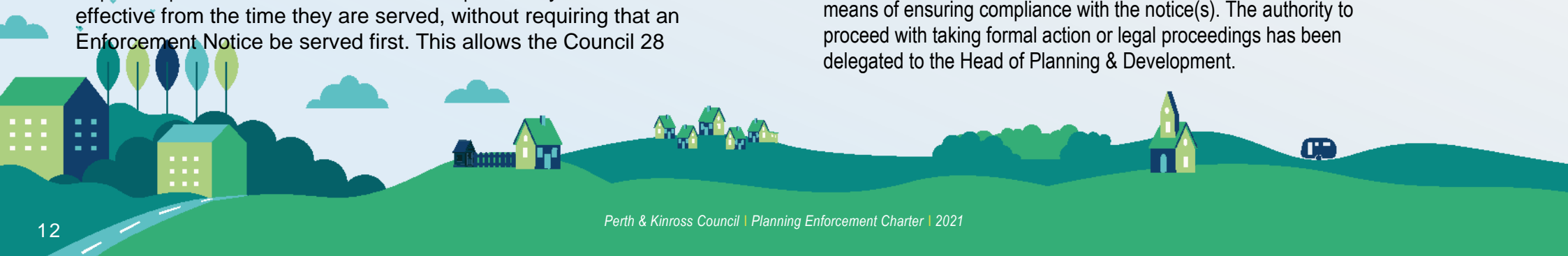
- A description of the breach of control that has taken place.
- The steps that should be taken to remedy the breach.
- The timescale for taking these steps.
- The consequences of failure to comply with the notice.
- Where appropriate, any rights of appeal the recipient has and how to lodge an appeal.

An **Enforcement Notice** can be accompanied by a **Stop Notice** if it is considered justified to prevent, for example, further work being carried out which is likely to have a significant detrimental impact on matters such as environmental quality.

Where a Notice is not complied with, there may be further consequences and the Council will usually take further formal steps, which can include:

- the issue of a fixed penalty notice;
- seeking interdicts or referral of the case to the Procurator Fiscal for prosecution; or
- direct action by the Council, to undertake the remedies specified in a notice, which will include seeking recovery of our costs.

In taking such action, the Council will consider the most effective means of ensuring compliance with the notice(s). The authority to proceed with taking formal action or legal proceedings has been delegated to the Head of Planning & Development.



## Service Standard - 6

We will, where it is considered expedient to do so, aim to serve any enforcement notice within 3 months from the date of the original observation and we will advise you when this is done.

## Appeals

Where a notice is served the Developer can, in most cases, submit an appeal to the Scottish Ministers. Most enforcement appeals are delegated to Reporters within the [Scottish Government's Planning and Environmental Appeals Division \(DPEA\)](#) to determine. If this happens timescales will be affected. The Council will defend notices served and you will also have the opportunity to make representation to the Scottish Ministers during the appeal process.

## Service Standard - 7

Where an appeal is submitted against a notice we will advise you of this and inform you on how you can monitor progress. Following an appeal decision, we will advise of any further action we will take, as appropriate.

## Further Information

### Enforcement Register

We maintain an Enforcement Register, which details all notices served by the Council. A list of recent [Enforcement Notices is available on our website](#).

Alternatively it can be inspected in person, during normal office hours, by visiting:

[Perth & Kinross Council](#)  
Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

### Time Limits for Enforcement

Planning Enforcement action must be taken within strict **time limits**:

- **A four-year limit** applies to unauthorised operational development (the carrying out of building, engineering, mining or other operations in, on, over or under land) and change of use to a single dwellinghouse.
- **A ten-year limit** applies to all other development including change of use (other than to a single dwellinghouse) and breaches of condition.

There is no time limit restricting the commencement of Listed Building Enforcement Action or action concerning a Tree Preservation Order.



## Customer Care and Complaints Process

The Perth & Kinross Council's **Customer Service Standards** explain the level of service you can expect when contacting Planning Enforcement in writing, by telephone or in person. We are committed to providing high-quality customer care and we welcome suggestions on how we can improve our service.

We will respond within 15 working days of receiving a suggestion about our Planning Enforcement service. We will consider all suggestions made and use them to review and improve the service we provide. We will communicate with you on any changes we implement as a result.

Any formal complaint will be dealt with in accordance with the Council's **Complaints Handling Procedure**. We will always tell you who is dealing with your complaint and how it will be handled and what timescales apply. Our complaints process has two steps:

- **Stage One: Frontline Resolution** - we will give you our decision within **5 working days** or less.

If you are not satisfied with the response at Stage One, it will progress to:

**Stage Two: Investigation** - we will acknowledge your complaint within **3 working days** and provide you a full response within **20 working days**.

Lastly, if you are dissatisfied with the Council's response to your complaint or the way it has been handled, you can ask the **Scottish Public Services Ombudsman** (SPSO) to look at it. The contact details for the SPSO are:

SPSO  
FREEPOST EH641  
EDINBURGH  
EH3 0BR

Tel **0800 377 7330**

Website/Online Contact [www.spsso.org.uk/contact-us](http://www.spsso.org.uk/contact-us)



## Our Contact Details:

Planning Enforcement  
Communities  
Perth & Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

Tel **01738 475300**

Email [PlanningEnforcement@pkc.gov.uk](mailto:PlanningEnforcement@pkc.gov.uk)

Website [www.pkc.gov.uk/article/15035/Planning-enforcement](http://www.pkc.gov.uk/article/15035/Planning-enforcement)

### How We Use Your Personal Information

The information provided by you will be used by Perth & Kinross Council to enable us to investigate the complaint or observation that you have made. The information may be shared with other services within the Council if considered necessary. The information will not be disclosed to third parties.

The Council may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties or share your information with them in order to verify its accuracy, prevent or detect crime, protect public funds or where required by law.

*For further information, please look at our website [www.pkc.gov.uk/dataprotection](http://www.pkc.gov.uk/dataprotection) or email [DataProtection@pkc.gov.uk](mailto:DataProtection@pkc.gov.uk) or telephone 01738 477933.*

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

[www.pkc.gov.uk](http://www.pkc.gov.uk)

