**Planning Enforcement/Unauthorised Development FAQ**

**What is Unauthorised Development?**

Generally, unauthorised development falls into 3 categories:

1. Planning permission is required for a development, but none has been obtained.
2. Non-compliance with planning permission:

A development is not carried out in accordance with the permission granted or any condition to which that permission is subject, and the development does not comply with the specified conditions and limitations to qualify as exempted development.

1. Unauthorised development can relate to physical works such as construction works, structures and alterations to structures, or to a material change of use of a structure or land.

**What is Exempted Development?**

Irish planning laws set out that all development requires planning permission unless the laws specifically states that permission is not required. Certain types of developments are specified in law as not requiring planning permission – this type of development is called exempted development, and is set out in the Planning and Development Act 2000 and the Planning and Development Regulations 2001 as amended There are usually certain thresholds stipulated for exempted development, such as size or height, and where these thresholds are exceeded, the exemptions no longer apply. For further information, please see page 8 of document titled: A Guide to making a planning application

If a question arises as to whether any particular development is or is not exempted development, a person may request a Section V Declaration from the planning authority on this question.

#### **How can I find out if a development has Planning Permission?**

You can inspect the Planning Register in the Planning Office either in person, by telephone or by email, or you can do this by performing a search using our Online Planning Search system

**N.B. It would be useful to check whether the development in question has planning permission before making a planning enforcement complaint.**

**What should I do if I think that there is a breach of the Planning Regulations?**

You should complete and submit a Planning Enforcement Complaint Form to the Planning Enforcement Section.

Contact details:

Planning Enforcement Section,

Cavan County Council,

Johnston Central Library,

Farnham Street, Cavan,

Co Cavan

Email: [enforcement@cavancoco.ie](mailto:enforcement@cavancoco.ie)

**N.B. The Planning Enforcement Section cannot log a complaint until the Planning Enforcement Complaint form has been received**.

#### **What information do I need to provide when making a complaint?**

* Exact location of the site, eircode etc(a site location map if possible).
* Details (where known) of the property owner/occupier/developer,
* Details of the suspected breach,
* Date the development commenced
* Photographs where possible
* Your own name & address and a daytime contact number.

**Will my complaint be kept confidential?**

If you make a Planning Enforcement Complaint your details are treated in the strictest of confidence and are not released to any third party and are not entered in Cavan County Council’s Planning Register. It is Cavan County Council’s policy to keep the name of the complainant confidential both during the course of any enforcement proceedings, and afterwards when the case is completed.

However, this information is subject to the provisions of the Freedom of Information Act 2014, as amended, and accordingly may be subject to disclosure. In exceptional circumstances, this information may be subpoenaed by a Court. More information on Freedom of Information Act 2014 is available [here](https://foi.gov.ie/) (<https://www.cavancoco.ie/freedom-of-information.htm>)

#### **How can I be of assistance during the investigation?**

* By supplying as much relevant and accurate information as possible.
* By keeping a log of dates, times and other relevant information in cases where an unauthorised use is intermittent
* By agreeing to give evidence and/or to sign a sworn affidavit, if required.
* It is the obligation of the Planning Enforcement Section to notify in writing to the complainant when a Warning Letter and an Enforcement Notice has been issued.
* It is not necessary to contact the Planning Enforcement Section for updates on a case, the Planning Enforcement Section will be in contact with you regarding the outcome of a case.

**What are the statutory time limits for taking planning enforcement action?**

Under Irish Planning Law, enforcement action must be taken within **seven years** of the development commencing.This means that complaints must be made within this timeframe.

* If the seven years have elapsed this does not mean however that the development concerned is authorised.
* In respect of a development for which permission has been granted, enforcement action can be taken up to seven years beginning on the expiration of the permission.
* Planning Enforcement action may be commenced at any time in respect of any condition attached to a planning permission concerning the use of land to which the permission is subject.

*There are some exceptions to this 7-year rule, which relate to quarrying operations and peat extraction.*

**N.B.** Irrespective of the time that has elapsed:

* An enforcement notice can be served, or an injunction can be sought where a person has failed to satisfy a planning condition concerning the use of land.

An unauthorised development has a negative impact on the value of a property:

* No further works that are considered exempt may be carried out.
* If the owner wishes to sell the property, the unauthorised development will decrease the value of the property.

#### **What type of issues are not dealt with under planning enforcement?**

Planning enforcement only relates to “unauthorised development”, which is as described above in this FAQ.

Planning enforcement **does not deal with** matters that do not relate to unauthorised development, civil matters or matters that are addressed under other legislation and codes, including but not limited to the following:

**Civil Matters:**

* encroachment
* property ownership or other legal issues
* private rights of way
* trespass
* civil boundary disputes
* noise nuisance (unless noise breaches a condition attached to a planning permission) In relation to noise please refer to Environment Section for details on options available to you under law **(email:** environ@cavancoco.ie).
* structural damage to private property resulting from construction works
* matters related to private drains
* outlets associated with boilers and other gas appliances (unless these have a material visual impact from a public area)
* other types of private nuisance

#### **If I breach the Planning Laws unintentionally, what should I do?**

If you think that you are in breach of the planning laws, you should contact the Cavan County Council’s Planning Department to discuss rectifying the situation.

Even if the development is outside the timeframe for taking enforcement action, it remains unauthorised and could have a negative impact on the value of the property.

In addition, further works that may normally be considered exempt (such as alteration, repair or renewal) may not be carried out to an unauthorised structure or a structure whose use is unauthorised.

It is in the interest of every property owner to ensure that any unauthorised development is regularised.

#### **What are the statutory time limits for taking Enforcement Action?**

Under the Planning & Development Act 2000, as amended enforcement action must be taken within seven years of commencement for development that commenced on or after 11 March 2002

Action must be taken within five years for development that began before that date.

Therefore, the Council is now precluded from taking enforcement action in respect of development that occurred before 11 March 2002.

#### **What are the penalties for breaching planning laws?**

The penalties for breaches of planning law depend on the nature of the offence but if found guilty, could result in a criminal prosecution and a fine and/or a prison sentence.

For more information, please refer to: [Planning Leaflet 6- A Guide to Planning Enforcement, Ireland, Office of the Planning Regulator, Department of Housing, Local Government and Heritage](https://www.opr.ie/wp-content/uploads/2021/01/Planning-Leaflet-6-A-Guide-to-Planning-Enforcement-in-Ireland.pdf)