

# ERYRI NATIONAL PARK AUTHORITY

## PLANNING COMPLIANCE POLICY



### INTRODUCTION

Eryri National Park is an internationally recognised, protected landscape, with a diverse range of wildlife habitats and a rich cultural heritage. It is also a home and workplace for over 25,000 people and is visited by about 4 million people a year. The special qualities of the National Park have been recognised by the nation as being worthy of conserving for the benefit of future generations. One of the many ways in which we do this is through the operation of our statutory planning function. This comprises three interrelated areas of work: the making of planning policy, the control of development and compliance. Any weakness in one of these will affect the other two, and so prejudice the effective operation of the function.

To maintain the integrity of the planning function, we must be **serious about compliance**; respect for the National Park Authority will be quickly undermined if unauthorised operations or changes of use, which are also unacceptable on their planning merits, are allowed to proceed without any apparent attempt to intervene. The public should rightly be able to expect that harmful activities being undertaken in breach of the planning regulations, whether intentionally or otherwise, are dealt with quickly, effectively and consistently.

Where a breach of planning control is identified, in the first instance, we will seek to remedy this through negotiations with the parties involved. Sometimes however the matter might demand the immediate consideration of formal enforcement action. It must however be remembered that in most instances a breach of planning control is not a criminal offence, and that the purpose of planning enforcement is to remedy the harm rather than to punish the perpetrator. When taking enforcement action our most important consideration will therefore always be whether amenity or safety, or

the existing use of land or buildings, merits protection in the public interest.

In accordance with the priorities contained in this policy we will investigate potential breaches of planning control that are brought to our attention.

We will also, where it would be beneficial, seek assistance from other organisations to try to resolve matters (e.g. Natural Resources Wales (NRW), Gwynedd Council, Conwy County Borough Council, the Highway Authority etc.). Wherever possible, we will work with businesses, farmers and communities in order that they can meet their legal obligations, without unnecessary expense.

### ***What constitutes a breach of planning control?***

We are also only responsible for enforcing breaches of planning control, although there is some overlap with controls exercised by other authorities and organisations. There are essentially two main ways in which such a breach can occur:

- Either **development**, e.g. building or engineering operations, or material changes to the use of land or buildings, are undertaken without the necessary planning permission; or
- Where permission or consent has been granted the approved plans, or the conditions attached to the approval, are not complied with.

Whilst controlled through a separate legislative regime, for the purposes of this policy, the unauthorised **display of advertisements** also constitutes a breach of planning control. We will also investigate complaints regarding untidy **land**.

### ***What is not a breach of planning control?***

Certain minor works or activities do not require planning permission, for example, internal works to buildings, or external works that do not significantly alter their

appearance. Furthermore, other building works are defined as **permitted development**, and as such a formal application for planning permission is not required. For example, extensive permitted development rights are available to householders in order that domestic properties can be altered or extended without the need to seek our permission beforehand.

We also cannot become involved in concerns relating to:

- Private rights of access, boundary disputes and overhanging tree branches. These are matters of private law and the advice of a **Solicitor** should be sought.
- The emission of noise, smells, dust and other forms of environmental pollution, including fly-tipping and litter (unless also involving a breach of a planning

condition). These are dealt with by **Natural Resources Wales (NRW)** under the 'Fly Tipping Reporting Initiative', or by the relevant **Unitary Council** (Conwy or Gwynedd).

- Methods of building construction, dangerous structures and drainage. These are normally dealt with by the **Building Control** section of the relevant Unitary Council; or
- The pollution of groundwater or watercourses. These are normally also dealt with by **Natural Resources Wales (NRW)**.

## **FROM PERMISSION TO IMPLEMENTATION**

Planning is a complex process, sometimes confusing, and often requires careful attention to detail to ensure that important matters are not overlooked. Genuine mistakes do however occasionally occur from time to time. Our Compliance Officers are always pleased to be able to work with developers, both before works begin on site, and during the project period, to ensure that planning problems can be avoided and the quality of the finished development improved.

### ***Planning conditions:***

Where planning permission has been granted, all the conditions attached to that permission should be read carefully and complied with in full within any specified time limits. This is especially important with respect to any conditions that require certain aspects of the development to be approved **before the commencement of the development**. Failure to comply with conditions of this nature can, in some circumstances, have the effect of invalidating your planning permission. A further planning application would then be necessary to resolve the situation.

Developers who have been made aware that a breach of planning control has occurred should stop work immediately. This can avoid further, possibly abortive work and expense.

## REGISTERING A CONCERN

We receive enquiries about potential breaches of planning control from many sources including community groups, individuals, Community Councils and Park Authority members. Anybody wishing to ask us to investigate works or activities that cause them concern may do so in one of the following ways:

### *By Completing Our Online ‘Report a Planning Breach’ form:*

The form can be accessed on the Authority’s website.

### *In Writing:*

Letters should be marked “**Confidential – Not to be Released**” and addressed to the:

Principal Planner (Compliance)  
Snowdonia National Park Authority  
National Park Office  
Penrhyndeudraeth  
Gwynedd  
LL48 6LF

For a concern to be registered a name, address (postal or e-mail) and contact telephone number must be provided. This is in order that a response, setting out any action that we have taken, or propose to take, can be given.

In all instances the following is the minimum amount of information necessary to enable us to undertake an effective investigation:

- the name of the person or company undertaking the alleged unauthorised works or activities.

- the address of the building or site (a location plan/grid reference will be helpful).
- details of any relevant planning permission for the development of the land.
- the nature of the alleged breach, when it first occurred (dates and times), whether it is continuing and the frequency of the activity; and
- details of the problems being caused; for example, visual impact, noise, smells, traffic generation etc.

Photographs can also be submitted to support an enquiry and assist the investigation process.

The Authority will always refer people to formally write or to submit their concern online via the Authority's website in order to provide as much detail as possible about alleged breaches of planning control. General emails and concerns received by telephone will no longer be investigated.

It must also be noted **anonymous** concerns will not normally be investigated.

## OUR SERVICE STANDARDS

We will act openly and with honesty and integrity. Everyone involved with our Compliance Service will be treated fairly and objectively and all our decisions will be made on the basis of their planning merits and in the best interests of the National Park. Our decision-making process will be robust and transparent, and we will explain and defend it whenever necessary.

Anybody who registers a concern with the Compliance Service can expect us to:

- *Maintain your confidentiality, subject to any disclosure requirements arising from a request received under the provisions of the Freedom of Information Act or the Environmental Information Regulations.*
- *Provide you with a written acknowledgement of your concern within ten working days of the date of its receipt.*
- *Invite you to comment on any application for planning permission arising from our investigation.*
- *Provide you with notification of the outcome of the investigation, whether or not formal enforcement action is taken; and*
- *Comply with requirements of the Data Protection Act.*

Alternatively, if you have been advised by us that you have breached the planning regulations you can expect to:

- *Be clearly advised of how the regulations have been breached, what action needs to be taken to remedy the situation, and when this must be done by.*
- *Be given an opportunity to discuss and resolve the matter by negotiation before formal action is taken; unless this is necessary in view of the seriousness of the breach, or because of deliberate non-cooperation; and*
- *Be told why it has been necessary to take enforcement action, the relevant planning policies which have given rise to the decision and the appeal procedures that are available.*

## **THE COMPLIANCE PROCESS**

### ***Compliance priorities:***

We receive over 130 enquiries relating to potential breaches of planning control every year, and these vary considerably in their nature. Common concerns relate to building or other operations, changes of use of buildings to commercial uses, unauthorised advertisements and problems associated with untidy land.

Clearly all enquiries cannot be given an equal priority. Neither can priorities be determined on the basis of who the complainant, or the developer, is, or on the number or strength of complaints received. We acknowledge that to a complainant, concerns



are of considerable importance however enforcement resources are limited, and some matters will cause considerably more harm to the environment, to public safety or to residential amenity than others. The cumulative impact of otherwise less significant matters can also have a considerable overall impact.

The following three categories of priority have therefore been identified. Each new investigation will initially be placed into one of these to determine the appropriate course of action, and speed of response.

#### ***Category A – High Priority:***

- Works being undertaken in contravention of the requirements of an Enforcement/Stop Notice, or any continuing breach of planning control where enforcement action has been authorized.
- Breaches that could become immune from the taking of enforcement action.
- The unauthorised demolition of, or major alteration to, a Listed Building, or the demolition of a building in a Conservation Area.
- Unauthorised development that may lead to substantial and/or permanent damage to sites of nature conservation importance.
- Unauthorised works to trees protected by a Tree Preservation Order, or to trees in a Conservation Area, where trees are likely to be seriously damaged or removed.
- The removal of important hedgerows.
- Non-compliance with a Section 106 Planning Obligation.
- Cases where Direct Action is required in order to secure compliance with an enforcement or other notice; and
- Unauthorised new dwellings and residential caravans.

### ***Category B – Medium Priority:***

- Breaches of conditions attached to planning permissions and other consents.
- Buildings, works or changes of use that adversely affect the environment of the National Park, or compromise the quality of life of residents or visitors.
- Untidy land or buildings; and
- Telecommunications development.

### ***Category C – Low Priority:***

- Minor or technical breaches of planning control where limited harm to amenity is being caused.
- The display of advertisements, including flyposting.
- Disputes between neighbours which relate to householder or similar developments and where there is limited public impact; and
- Any other alleged breach of planning control not falling into **Category A** or **Category B**.

### *Investigation timescales:*

To establish whether a breach of planning control has taken place it will nearly always be necessary for a Compliance Officer to visit the site. All our Officers carry an identity card and possess details of their **Rights of Entry** in connection with compliance investigations.

The initial inspection of the site of a potential enforcement issue will very often be crucial for determining the continuing priority to be afforded to the investigation, and the likely subsequent course of action. The following are the response times we consider to be both appropriate and reasonable in respect of each category of priority. These are maximum response times and, as circumstances dictate, some sites may need to be inspected sooner.

We will aim to inspect 90% of sites within the following timescales:

- |                              |                        |
|------------------------------|------------------------|
| • <i>Category A (High)</i>   | <i>3 Working Days</i>  |
| • <i>Category B (Medium)</i> | <i>7 Working Days</i>  |
| • <i>Category C (Low)</i>    | <i>28 Working Days</i> |

Where there may be uncertainty as to whether or not a breach of planning control has actually occurred a **Planning Contravention Notice** might be served. This will require details of land ownership and the use of land to be provided and can also request that the developer attends a ‘time and place’ meeting in order that the issue can be discussed.

### *Expediency and public interest:*

The cause of good planning is not served by the pursuit of unimportant breaches of control. However not to take action, where it is clearly necessary, can be

considered to be maladministration. It is equally important to remember that planning enforcement is a **discretionary** power. This means that we have to decide on a case-by-case basis whether it is in the **public interest** to take enforcement action. Action does not therefore have to be taken in respect of every identified breach of planning control, and in most instances, it would be inappropriate to take formal action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site, or one which is essentially of a private nature, for example disputes between adjacent landowners.

Neither will action be taken solely on the basis of a perceived loss of property value, the loss of a view or potential competition with a similar business.

In certain situations, we also have the option of seeking the submission of an application for retrospective planning permission. This will often be necessary where we wish to impose conditions on the continuing use of land, for example to control the hours of operation of a potentially noisy development. To facilitate this an **Enforcement Warning Notice** may be served. This Notice can be served where it is considered unauthorised development could potentially be made acceptable with control and the implementation of appropriate planning conditions. The serving of this Notice will provide an indication to the developer/offender that if an application is submitted, appropriate control could be applied to the development to make it acceptable.

### ***Taking enforcement action:***

Should formal enforcement action be necessary a wide range of available powers have been delegated to our Compliance Officers. An assessment will be made, in each case, of which power (or mix of powers) is best suited to dealing with any suspected or actual breach of control to achieve a satisfactory, lasting and cost-effective remedy. Rapid initiation of enforcement action is often essential to prevent an unauthorised situation becoming well established, and subsequently more difficult to remedy. In considering whether to take

enforcement action we will assess all breaches of planning control against the following criteria:

- *Whether the unauthorised development or works conflict with the relevant policies of the local plan.*
- *The statutory aims of the National Park and the provisions of the National Park Management Plan.*
- *The content of Welsh Government advice and guidance contained in Planning Policy Wales (PPW) or Technical Advice Notes (TANs).*
- *The level of harm that is being caused, or could potentially be caused, to the natural or built environment.*
- *The level of harm that is being caused, or could potentially be caused, to visual or residential amenity; and*
- *Whether there are any public safety implications.*

Details of the various enforcement powers available to us are set out under Section 14 Annex Enforcement Tools of the Development Management Manual and can be located here - [section-14-annex-enforcement-tools.pdf](#)

The Welsh Government sets a **12-week** target for resolving enforcement cases. Whilst we will aim to meet this target in most cases, due to the complex nature of many the investigations that we undertake, some will take longer.

We also have a **Local Performance Indicator** that records the percentage of cases that have been satisfactorily resolved without the need to take formal enforcement action; we believe this is a better measure of our success.

### ***The Human Rights Act 1998:***

The Human Rights Act (HRA) has incorporated provisions from the **European Convention on Human Rights** into UK law. The Convention states that public authorities may only interfere with someone's private and family life, home and correspondence where they have legal authority to do so, and where it is

necessary in a democratic society; and that no one can be deprived of their property except where the action is permitted by law and is justifiable in the public interest.

We will carefully consider the provisions of the HRA when deciding whether to take enforcement action, which must always be **proportionate** to both the scale of the breach, and to the level of harm that is being (or could be) caused. Equally, we will strive to ensure that our actions do not give rise to any claims of discrimination against any citizen or group.

## **COMPLAINTS ABOUT OUR SERVICE**

We are committed to providing a high standard of service to the public at all times. Sometimes, however, mistakes can be made. We therefore have an established procedure for recording and dealing with complaints about our services, details of which can be found by following this link - [Make a Complaint - Park Authority](#)

Alternatively, our **Head of Administration and Customer Care** can be contacted by telephone on 01766 770274 or e-mail at [parc@eryri.llyw.cymru](mailto:parc@eryri.llyw.cymru)

### ***The Public Services Ombudsman:***

If you are unhappy with our response to a complaint, you have the right to lodge a further complaint with the Public Services Ombudsman for Wales (PSOW), For advice on making a complaint you can call the PSOW on 0300 790 0203 or you can e-mail [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

Complaints to the PSOW can be submitted online, or by post to the following address:

Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed,  
CARDIFF, CF35 5LJ