

Minerals Enforcement Charter



Foreword

The enforcement of planning conditions, planning obligations, legal agreements, development construction and the investigation of complaints about the unauthorised use of land or buildings in Fife associated with minerals extraction is taken very seriously by Fife Council. Although it is often a complex legal area and can sometimes appear to be a slow process, Fife Council has a specialist team of experienced officers who monitor and regulate development activities in Fife on behalf of the public.

The enforcement of minerals development is an area of planning enforcement which Fife Council considers as a priority when there has been an alleged breach of any planning consent issued. Having a robust enforcement system is essential for ensuring continued public confidence in the planning system especially where a minerals development is located adjacent to a town, village or small community, or is located within a sensitive landscape.

Fife Council will investigate each complaint thoroughly and in the first instance try to resolve the matter, as the role of planning enforcement is not to punish or stop businesses operating but to regularise the breach. Fife Council will consider what the proportionate response is to the level of harm evidenced from the investigation. However formal enforcement action will be taken if Fife Council considers that there is a high level of harm being caused or a public safety issue has been created.

This Minerals Enforcement Charter will provide all customers and interested parties with an informative introduction to how we enforce planning controls across Fife in relation to minerals development.

If you need further information on enforcement matters or you wish to check on a particular site or building, then please contact one of our enforcement officers or planning staff by following the links at the bottom of each page.

The Council's Enforcement Charter is also a useful reference for general concerns about enforcement and how the Council investigates concerns from local communities. This can be found within the publications of our [Breaches of planning control](#) webpage.

Introduction

Fife has a long-standing legacy of mineral extraction, with historic deep mining and small-scale quarrying increasingly replaced in recent decades by opencast coal extraction and larger quarry operations.

Minerals policy in Fife is set within the Statutory Development Plan which comprises National Planning Framework 4 (NPF4), which was adopted in February 2023 and the adopted FIFEplan (2017). Minerals policies, as contained within NPF4 and FIFEplan (including adopted Minerals Supplementary Guidance), is a material consideration in the determination of planning applications. The Minerals Supplementary Guidance sets out four objectives for minerals, which are to:

- Improve the husbandry and management of the exploitation of Fife's mineral resources;
- Safeguard mineral deposits from sterilisation;
- Ensure that the scale and location of mineral extraction is sufficient to meet the needs of Fife's economy as well as contributing to wider city region market area needs; and
- Ensure that the protection of the environment and local communities is a key cornerstone and that development will be located/granted with this in mind.

The Minerals Supplementary Guidance supports the implementation of FIFEplan by providing detailed guidance to assist decision-making in relation to minerals development.

Mineral development in Fife is also guided by Planning Advice Note 50: Controlling the Environmental Effects of Surface Mineral Workings (PAN 50), which provides detailed advice on the control and management of surface mineral extraction. PAN 50 recognises the importance of mineral working to the economy while emphasising that such development must be carried out in a manner that safeguards local amenity and environmental quality.

The principles contained within PAN 50 align with the objectives of the Minerals Supplementary Guidance and continue to carry material weight in the determination of planning applications for mineral workings and associated development.

Proactive On-Site Checking

Due to the prevalence of ongoing and historic mineral extraction activity in Fife, Fife Council requires all minerals development to be subject to monitoring and reporting to ensure compliance with the terms of the relevant

planning permissions and associated legal obligations.

Historically, this role was undertaken by a Minerals Compliance Officer (MCO). Fife Council has since moved away from this model with compliance monitoring now overseen through the appointment of independent specialist assessors, currently Ironside Farrar, commissioned by the Council via a framework agreement. It is expected that site operators will reimburse the Council for the costs associated with these assessments.

The independent assessors undertake compliance monitoring on behalf of Fife Council and provide reports on the operator's adherence to planning conditions, approved documents, and any other relevant requirements. Monitoring reports are prepared on an annual basis for all minerals sites however in instances where compliance issues are identified, additional site visits and reporting may be undertaken as necessary.

The independent assessors operate separately from the planning application and determination process for the sites concerned and will not have been involved in the preparation or assessment of related Environmental Impact Assessments.

Therefore, where a breach is identified during compliance monitoring, this will be reported to Fife Council through the next scheduled monitoring report and discussed with the site operator as part of the ongoing compliance process.

Fife Council, as Planning Authority, will then seek to work with the operator to ensure that the breach is remedied and that the development continues to operate in accordance with the planning permission and associated obligations.

Where a breach is considered to be of a serious nature, or where there is a risk of continued non-compliance, Fife Council will be notified at the earliest opportunity by the independent specialist assessors, rather than awaiting the next scheduled report.

Reactive Monitoring

In some cases, minerals development may pre-date the introduction of systematic compliance monitoring arrangements, or concerns may arise following a complaint from a member of the public or another organisation. In such circumstances, the alleged breach of planning control will be investigated by the Council's planning enforcement team supported where appropriate by the appointed independent specialist assessors, to establish whether a breach has occurred.

Investigations may relate to occasional or isolated incidents, such as a one-off breach of permitted operating hours, or to more regular or recurring matters, for example equipment being routinely operated prior to a planning-controlled start time.

All alleged breaches are treated as important matters and, where necessary, will be prioritised for site inspection. The nature of the breach and any associated impacts on the environment, residential amenity, or surrounding land uses will be fully assessed.

In some circumstances, it may become apparent through investigation that amended operating practices would require a variation to the existing planning permission. Where such amended practices are considered likely to be acceptable in planning terms and not resulting in additional adverse impacts, the operator may be encouraged to regularise the position through the submission of a planning application.

Where this approach is followed, the operator may be permitted to continue operating under the amended practice while the planning position is being regularised. This does not prejudice the rights of any individual to object to or make representations on a submitted application, nor does it diminish the material weight of any representations received.

When will Action be taken?

Where a breach is identified, the need for enforcement action is wholly dependent upon the nature of the breach. Where independent specialist assessors, appointed by the Council, identify a clear breach of planning control within the minerals operation and that breach has unacceptable impacts on the environment, individuals or properties, then the matter will be reported to Fife Council and the Council will take the steps necessary to resolve the breach.

Fife Council has many powers open to it through the Planning Acts, such as Breach of Condition Notices, Enforcement Notices, Temporary Stop Notices and Stop Notices, or, if necessary, seeking a legal route of recourse through the court system, including an interdict or interim interdict.

Where issues are better controlled through other legislation, such as noise or discharges to watercourses, the Planning Service may work with other Fife Council Services or external agencies whose legislative powers are better equipped to stop the breach or minimise the environmental impact.

In all cases, and prior to the commencement of any formal enforcement action, the Council will seek to resolve breaches of planning control through discussion and negotiation with the site operator. This approach is intended to secure compliance in a proportionate manner and to enable breaches to be remedied voluntarily, where appropriate, without the need for formal enforcement procedures.

Stage	Stage Description
Identification of Potential Breach	A potential breach is identified through routine compliance monitoring by the Council's appointed independent specialist assessors or via a complaint from the public, another organisation, or an internal Council service.
Initial Review	The Planning Service undertakes an initial review to determine whether further investigation is required. Liaison may take place with other Council services or external regulators (e.g. SEPA or the Health and Safety Executive), where relevant.
Site Inspection and Investigation	Where necessary, a site visit is carried out to establish the facts and assess the likely impacts. Often this will involve the independent specialist assessors, planning enforcement officer, planning application case officer, and other relevant officers or regulators as appropriate.
Determination of Breach	The Planning Service determines whether a breach of planning control has occurred. Where no breach is identified, the case is recorded and closed. Where a breach is identified, the operator is informed in writing of the nature of the breach and the Planning Authority's position.
Negotiation and Informal Resolution	Prior to formal enforcement action, the Council will seek to resolve confirmed breaches through discussion and negotiation with the operator, with the aim of securing compliance in a proportionate manner.
Assessment of Acceptability	The Council assesses whether the breach is likely to be acceptable in planning terms or capable of being made acceptable through amended operations, mitigation, or additional controls, having regard to policy and impacts.
Regularisation Through Planning Permission	Where a breach is capable of being made acceptable, the operator may be invited to submit a planning application to regularise the development. This does not prejudice third-party rights or representations.
Formal Enforcement Action	Where a breach is unacceptable, cannot be made acceptable, or is not remedied within agreed timescales, Fife Council may take formal enforcement action using powers available under the Planning Acts.
Resolution and Case Closure	The case is closed where the breach is remedied, the development is regularised through planning permission, or enforcement or other regulatory action has secured compliance.

How Long Will Corrective Action Take?

It is always the aim of Fife Council to have a breach of planning ceased as soon as is practicable, and will in the first instance try to work with site operator to cease any harmful elements of an identified breach.

Where a site operator does not act positively with Fife Council to remedy a breach and formal enforcement action must be pursued, the level of enforcement must be proportionate to the breach. Therefore, for a minor unacceptable breach the immediate forms of intervention such as a stop Notice or an interdict may be over enforcement of the issue and could potentially open Fife Council to paying costs to the site operator for unreasonable behaviour. Therefore, it is more likely that an Enforcement Notice or Breach of Condition Notices would be used in such circumstances.

These notices are not immediate and generally provide 28 days after service on all those who have an interest in the site, before becoming effective. Thereafter the notices must allow a reasonable time period for the operator to take the steps required to rectify the breach.

A site operator also has the opportunity to appeal a Planning Enforcement Notice which means a final decision on the breach may take up to 6 months or more after service before a final decision is reached.

Fife Council will however continue to liaise with the operator, where they are receptive to such contact to work with them to minimise the effects of the breach if the breach is not ceased.

How will I find out about the outcome of my complaint?

If you have found it necessary to bring a potential breach to the attention of Fife Council, your enforcement investigation will be acknowledged whereby you will be advised of the case officer investigating and the reference number which will be used in all future correspondence.

Officers will keep you updated at the pivotal points of their investigation and inform you of the outcome of the investigation once it has been fully completed.