

Renfrewshire Council
Planning Enforcement Charter 2024



Enforcement Of Planning Control

A high quality planning system is essential in creating great places.

Public confidence in an efficient and effective planning service is key to this delivery.

Working alongside our communities with input from the public and other stakeholders is central to assisting in the delivery of a high quality planning system.

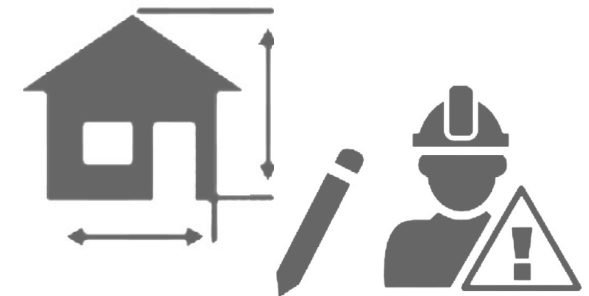
Enforcing planning regulations in a timeous, consistent and proportionate way is important and there is a role for the public in letting Planning know when there is a potential breach of planning control.

The aim of this charter is to make sure the procedures set out are fair and reasonable and that we keep everyone involved and informed when throughout the process.

This Charter explains;

- How the enforcement process works,
- The role of Renfrewshire Council,
- The current powers available to the Council and,
- The Service Standards that are set out.

It also explains what happens at each stage of what can be a lengthy process.



Planning permission is required for certain types of development. There are occasions however, when developers or householders undertake work without planning permission or fail to keep to the permission they have been given.

Councils have powers to enforce planning controls in cases where they consider it is in the wider public interest to do so.

A breach of planning control is not a criminal offence.

The purpose of planning enforcement is to find a solution or deal with the issue rather than to punish for what is often a mistake. Any action taken has to be appropriate to the scale of the breach and the harm it may have caused.

Enforcement is a discretionary power. That means that, even where there is a breach of planning control, the Council has to consider if it is in the wider public interest to take enforcement action. The Council will not act as arbiter between parties where there is no public interest involved or breach of planning control.

Taking formal enforcement action is a last resort when other ways of solving the problem have been exhausted.

Where a satisfactory outcome cannot be achieved by negotiation, the Council can take action where it is proportionate and necessary.

Planning have legal powers to take formal enforcement action if unfortunately we can not negotiate a satisfactory solution to problems that have arisen.

More detailed information on the use of enforcement powers can be found in the Scottish Government publication Circular 10/2009: Planning Enforcement which can be found online at:

<https://www.gov.scot/publications/planning-circular-10-2009-planning-enforcement/>

Service Standard 1

By publishing our standards and targets, the aim is to ensure the enforcement process and procedures are fit for purpose making it responsive to the needs of our stakeholders. We will continuously monitor the contents of this Charter to ensure that standards and targets are being met.

Enforcement Of Planning Control

Possible breaches of planning control include:

An unauthorised change of use;

Work carried out or being carried out without planning permission or listed building consent;

Failure to comply with conditions attached to a permission or listed building consent;

Departures from approved plans or consent;

Carrying out works to trees that are protected by a planning condition or trees in conservation areas.

Householders

Planning permission is required for a range of developments including extensions to your house or building within the garden ground. Some minor works can be carried out without applying for permission (known as permitted development).

A link to the current permitted development rights for householders can be found at the link below to assist in confirming the requirement or otherwise for formal planning permission to have been sought prior to the commencement of any development works: <http://www.legislation.gov.uk/ssi/2011/357/schedule/made>

Guidance on Householder Permitted Development Rights can be found using this [link](#).

People sometimes carry out work without planning permission because they are unaware that permission is required. If you are concerned that there has been a potential breach of planning control, please report your concerns by completing the online form at https://myaccount.renfrewshire.gov.uk/en/service/Report_a_Suspected_Planning_Breach.





Advertisements

Planning enforcement also covers the physical display of advertisements such as billboards and advertisement hoardings: https://www.legislation.gov.uk/ukxi/1984/467/pdfs/ukxi_19840467_en.pdf

The actual content of an advertisement is not covered by planning control. Any complaints relating to content should be made directly to the [Advertising Standards Authority](#).

The display of banners and ad-hoc signs placed remotely from the business premises or activity is not acceptable. Limited opportunity will be given to the party responsible for the display to remedy the matter voluntarily. Direct action will be contemplated as the first response. The Council will consider what action to take in relation to unauthorised advertisements and alert the relevant Service to deal with the matter.

Trees



Trees and woodlands contribute greatly to amenity and the quality of place. The Planning & Development Tree Policy sets out the framework to protect and maintain existing trees, this can be found using the following [link](#).

Trees in a conservation area are also protected and subject to control. Further details on the Council's tree protection measures can be found at following [link](#).

Tree Preservation Orders (TPO) are used to protect trees, groups of trees or woodlands that add to the character and appearance of the area. If you want to carry out work to any tree, or trees covered by a tree preservation order or trees in a conservation areas, approval requires to be sought from the Council please contact dc@renfrewshire.gov.uk for assistance.

High Hedge Legislation came into force in 2014. The purpose of the legislation is to consider issues in relation to high hedges which have an impact on the reasonable enjoyment of a property and when the issue has not been able to resolved amicably between neighbours. Scottish government guidance can be found at the following the [link](#).

Implications Of Potential Breach

What are the legal implications of not complying with planning legislation?

Failure to gain planning permission, listed building consent, advertisement consent or treeworks consent, before development or works are carried out or an advertisement is displayed may have financial or legal implications which could prove problematic to resolve.

Not observing the regulatory requirements may significantly delay or impede the conveyancing transaction for the sale of a house, or letting of commercial premises.

In circumstances where there is an unauthorised use or works have been carried out without consent, the Council will usually expect the submission of the appropriate formal application to regularise matters. However there is no guarantee that consent will be granted.

The failure to comply with conditions to which permission or consents are subject, prior to, during or following development can have similar implications and may require amended Planning Permission or Listed Building Consent application to be submitted to regularise the situation.

What are the time limits on Enforcement Action?

It should be noted that Enforcement action has to be taken within time limits:

The four year limit - this applies to 'unauthorised operational development' (the carrying out of building, engineering, mining or other operations in, on, over or under land) and a change of use to a single dwellinghouse. After four years following this type of breach, the development becomes lawful, and no enforcement action can be taken.

The ten year limit - this applies to all other development including change of use (other than to a single dwellinghouse) and breaches of condition. After ten years, the development becomes lawful if no enforcement action has begun; and no enforcement action can be taken.

There is no time limit for breaches of Listed Building Control (works undertaken to a Listed Building) they will always be considered no matter the time limit from the potential breach.

How To Report A Potential Breach Of Planning Control

Any potential breach in planning control can be reported using our online form at https://myaccount.renfrewshire.gov.uk/en/service/Report_a_Suspected_Planning_Breach.

However if this is not possible concerns can be posted to:

Development Standards, Chief Executive's Service, Renfrewshire House, Cotton Street, Paisley, PA1 1JD.

The following information is essential when reporting a potential breach:

- The address of the property concerned;
- Details of the suspected breach of planning control, with times and dates if relevant;
- Your name and contact details; and
- Information on how the breach affects you and others.

We will treat all reports as confidential and will not publish any personal details, name, address and contact details of the complainant.

All data submitted to us will be handled in accordance with the relevant data protection legislation.

It should be noted that under Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2002 we may need to disclose information relating to the substance of any reports received. Requests for total confidentiality may also limit our ability to take formal action and we cannot guarantee this if the case leads to court proceedings.

We do not accept anonymous complaints in relation to breaches of planning control.

Contacting Your Local Councillor

In some instances, your local councillor may be the first person you approach in relation to a potential breach of planning control. We would encourage everyone to report any potential breach of planning control using the contact details opposite to enable direct contact with the relevant officers and to be kept up to date with the process and procedures. Councillors being involved in enforcement cases may prevent them from making decisions on any potential applications associated with the case or other formal action. This is in line with the Standards Commission Code of Conduct*.

* <https://www.standardscommissionscotland.org.uk/>

What Happens Next

Information received by the Council is checked to see if it involves a possible breach of control and includes all the detail required for a possible investigation.

Some complaints, such as neighbour disputes over boundaries and ownership, relate to legal matters over which Planning has no control and these matters cannot be investigated.

The Council will generally take action in the interests of the wider public amenity or safety.

Where enquiries relate to an area of the Council function other than Planning, the matter will be referred to the relevant Council Service, and the enquirer notified.

Service Standard 2

After preliminary checking and compliance with the requirements for investigation, the complaint will be recorded. Once recorded, an acknowledgement will be sent to the person who made the complaint within 5 working days. The acknowledgement will include a reference number and contact details of the investigating officer.

Timescale

Any action that is taken has to be appropriate to the scale of the problem and also importantly the harm that it may be causing.

Priority will be given to breaches of planning control, including:-

- Significant detrimental impact on public safety; and
- Irreversible damage to listed buildings;
- Significant detrimental impact on amenity;
- Protected by Tree Preservation Orders/in Conservation Areas.
- Unauthorised felling of trees and matters affecting trees

Service Standard 3

An investigation into the matter will be undertaken and a response updating the complainant will be provided within 28 working days of the initial acknowledgment. This response will also advise what proposed action will be taken, if any. This may include the need for additional investigation prior to deciding on a course of action or if the matter does not involve a breach of planning control or if it is not intended to take any further action.

Timeframes for Action

The length of time required to investigate an issue can be affected by a number of factors, including gathering evidence, negotiations between parties or for formal action to be initiated and concluded.

Similarly, an application to regularise the breach of control or an appeal against a decision of Planning can also have an impact on timescales to resolve the issue.

The Council recognises that delays can be a source of considerable frustration to those submitting information, particularly if they consider that their amenity is affected.

Consequently, it is appreciated that there is a need to keep interested parties informed of significant stages in the progress of a case. If you want and require regular updates you should contact the case officer for an update.

Please note that the preferred method of communicating with all parties is electronically, if this is possible, and where there is no legal or procedural need for letters.

Service Standard 4

The Council aim to keep people informed about significant stages in the progress of the case. Where there has been no progress for a period of 28 working days, the case officer will provide an update.

Processes & Procedures

Planning has discretion on whether to take enforcement action in any given situation and various options are open to Planning.

There will be a focus on trying to sort out a situation by negotiating with the person responsible for breaching planning control.

We will give the person responsible for the breach in planning control a specific amount of time to meet the requirements. The length of time will depend on how serious the issue is and the harm it may be causing.

Planning is unlikely to take formal action for developments which in planning terms, are deemed to be acceptable.

In some cases action may not be appropriate, even though planning controls have been breached.

There may be cases where it is appropriate to ask the person in breach of planning control to make a retrospective planning application. Until we make a decision on the retrospective application, we will not take formal action. If a retrospective application is submitted, the normal neighbour notification and publicity will be carried out and we will fully consider any comments before a decision is made.

Planning has to consider each case on its merits and decide on the most appropriate solution.

Formal enforcement action will only be taken where, the breach of planning control is significant and would unacceptably affect public amenity, public safety or the use of land and buildings meriting protection in the public interest.

The action taken must be proportionate to the breach. We will not take action simply because someone does not have planning permission or refused to send us a retrospective planning application.

Service Standard 5

The Council also has powers to remove or destroy placards and posters that do not have advertisement consent or deemed consent. If the person who put up the advertisement can be identified, they have to be given at least two days notice that the Council intends to take the advertisement down. If they cannot be readily identified, then the advertisement can be removed immediately as can those affixed or erected on Council property.

Formal Action



Only a small number of cases require formal action. This begins within either an Enforcement Notice or Breach of Condition Notice being served on those involved in the development.

Both 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, and
- Where appropriate, any rights of appeal the recipient has and how to lodge an appeal.

Service Standard 6

Where a planning breach cannot be resolved and action is justified, a formal notice will be served. The Council will write to the developer in advance of serving any notice warning of the intent to do so. Thereafter, the recipient of the notice will be advised as to what action is required, the timescales involved and the available options to resolve the issue.

Appeals

Appeals against Enforcement Notices are considered by Scottish Ministers and dealt with, in most cases, by independent Reporters from the Scottish Government Directorate of Planning and Environmental Appeals.

Anyone who has submitted information on a breach of planning control will be advised of the appeal either by the Council or the Scottish Government. There is no right of appeal against a Breach of Condition Notice.

Penalties

Failure to comply with a Notice may result in the planning authority taking further action. This can include a range of possible options including;

- Referring the case to the Procurator Fiscal for possible prosecution,
- Carrying out work and charging the person for the costs involved,
- Seeking a Court interdict to stop or prevent a breach of planning controls.

It should be noted that the expectation is that cases will be resolved without the need for any referrals to the Procurator Fiscal.

In terms of any unresolved enforcement breaches, a proportionate approach will be adopted when considering potential referrals to the Procurator Fiscal.

Enforcement Process

1

Acknowledgement and initial investigation to determine if it constitutes development.

5 working days

2

Response to complaint following initial site investigation.

28 working days

3

If a breach is identified invitation to make an application or what is required to rectify the matter or if no enforcement action is to be taken interested parties will be advised of the decision.

4

If no progress is made contact will be maintained with the complainant to advise of key developments going forward.

5

If there is no attempt to rectify matters the Planning Authority will consider taking further action.

Types Of Enforcement Action

Section 33A Notice, Breach of Condition Notice, Stop Notice or Temporary Stop Notice

No appeal against the notice or its terms. If they are not complied with, the case may be referred to the Procurator Fiscal, or an interdict or interim interdict sought.

Enforcement Notice, Listed Building Enforcement Notice, Advertisement Enforcement Notice or Amenity Notice

The developer may lodge an appeal with the Scottish Ministers. Procedures are held in abeyance until the appeal is determined. The Ministers may vary the terms of the notice. Failure to comply with the notice can be reported to the Procurator Fiscal.

Service Standard 7

Renfrewshire Council is committed to providing the highest standards of service to our communities. If we do not meet these standards let us know as quickly as possible so that we can put things right.

Details of Enforcement Notices, Breach of Conditions Notices, Stop Notices, Temporary Stop Notices and Notices under Section 33A (notice requiring the submission of a retrospective planning application) are entered into an Enforcement Register. You can inspect the register online via the [public planning portal](#).

Powers of Entry

Council officials have powers to enter land or buildings to:-

- Establish if there has been a breach of planning control;
- Check if there has been compliance with a formal notice;
- Check if a breach has been satisfactorily resolved.

This power applies to any land or buildings and may involve officials entering land adjacent to the site of the breach.

Monitoring of Major Planning Permissions

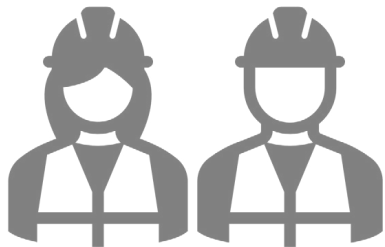
In line with the Act, Renfrewshire Council will seek to monitor the compliance with planning permissions which have been granted in respect of major developments. This monitoring will be undertaken by the planning case officer at regular intervals as the development progresses. The outcome of this monitoring will be found via the online portal under the planning reference, to allow these records to be available to the public.

Monitoring of Major Developments

In line with the Planning (Scotland) Act 2019, Renfrewshire Council are required to monitor major development and ensure they are constructed in line with the respective planning consent.

Officers will monitor all major developments and will seek to ensure that the development progress in compliance with relevant conditions and the wider consent and approved plans.

In the event that the development does not proceed in compliance with the respective consent Officers will seek a resolution to such matters which may include taking formal enforcement action should a resolution not be reached.



Appendix - Enforcement Powers

The Planning Enforcement powers available to the Council are set out in Part IV of the Town and Country Planning (Scotland) Act 1997 and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Planning Acts are available from The Office of Public Sector Information (OPSI) at www.opsi.gov.uk.

Government policy on planning enforcement is set out in Circular 10/2009, “Planning Enforcement”. This document is available from the Scottish Government and can be viewed electronically at <https://www.gov.scot/publications/planning-circular-10-2009-planning-enforcement/>.

Request for Application Notice (Section 33A of the Town and Country Planning (Scotland) Act 1997)

This may be served where the Council requires the submission of a planning application for development which has already taken place without the appropriate planning permission. Technically, this constitutes formal enforcement action and extends the period within which other enforcement action may be taken.

Planning Contravention Notice

This is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, or a person with any other interest in the land or who is carrying out operations on the land. They are required to provide information about operations being carried out on the land and any conditions or limitations applying to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

Breach of Condition Notice

This is used to enforce the conditions applied to any planning permission. It is effective from the date it is served. It may be used as an alternative to an enforcement notice (see below), and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal.

Contravening a breach of condition notice can result in the Council referring the case to the Procurator Fiscal for possible prosecution, with a fine on conviction of up to £5000

Enforcement Notice

This is generally used to deal with unauthorised development, but can also apply to breach of planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements. An enforcement notice will specify a time period to take effect (a minimum of 28 days – but see the section below on advertisements), the steps that must be taken to remedy the breach and the time for this to be completed. There is a right of appeal to the Scottish Ministers and the terms of the notice are suspended until a decision is reached. Failure to comply with an enforcement notice within the time specified is an offence, and may lead to a fine of up to £50,000 in the Sheriff Court. Failure to comply may also result in the Council taking direct action to correct the breach (see other powers below).

Listed Building Enforcement Notice

This must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.

Stop Notice

This is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a stop notice is served, the planning authority must also issue an enforcement notice. There is no right of appeal against a stop notice and failure to comply is an offence. An appeal can be made against the accompanying enforcement notice. If a stop notice is served without due cause, or an appeal against the enforcement notice is successful, the Council may face claims for compensation. The use of stop notices therefore needs to be carefully assessed by the Council.

Temporary Stop Notices

Takes effect immediately when it is issued and, unlike a stop notice, does not require the issue of an enforcement notice. It would be used to stop an activity that would, in the Planning Authority's view, cause damage to the environment and/or local amenity. The temporary stop notice might not prohibit the activity over the entire site. For example, it might instead restrict it to certain areas or times. The maximum period a temporary stop notice can be in effect for is 28 days.

Fixed Penalty Notices

Issued where Enforcement Notice or Breach of Condition Notice not complied with - this can be served where a person is in breach of an enforcement notice or a breach of condition notice where the notice is served within the six month period immediately following the compliance period stated in the enforcement notice; and that no prosecution proceedings have been started in respect of the breach. There is no right of appeal against a fixed penalty notice. The penalty for breach of an enforcement notice or a breach of condition notice is £2,000 and £300 respectively. The amount payable is reduced by 25% if paid within 15 days. Payment discharges any liability for prosecution but does not however discharge the requirements of the original enforcement or breach of condition notice and the Planning Authority retains the power to take direct action to remedy the breach and recover any costs associated with such work. There is no right of appeal against a fixed penalty notice.

Other Powers

Interdict and Interim Interdict (Section 146 of the Town and Country Planning (Scotland) Act 1997)

An interdict may be granted by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and the Council normally only seeks interdicts in very serious cases e.g. where public safety may be involved or unauthorised works are taking place to a listed building. The Council can seek an interdict, however, in relation to any breach without having to use other powers first. Breaching and interdict is treated as a contempt of court and carries heavy penalties.

Direct Action

Failure to comply with the terms of an enforcement notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

Contacts

Contact details for reporting potential breaches of planning control

E-mail dc@renfrewshire.gov.uk or write to:
Development Standards, Chief Executive's Service, Renfrewshire House, Cotton Street, Paisley, PA1 1JD.

Contact details for general inquiries on planning issues

Telephone Development Management on 0300 3000 144.

Contact details regarding customer service

Complaints Office, Renfrewshire Council, Renfrewshire House, Cotton Street, PAISLEY PA1 1WB
Email: complaints@renfrewshire.gov.uk

Other useful contacts – enquiries regarding building warrants

Building Standards, Chief Executive's Service, Renfrewshire House, Cotton Street, Paisley, PA1 1JD.
Telephone 0300 3000 144 or email bc@renfrewshire.gov.uk.

Planning Aid for Scotland

If you need advice about a specific planning issue you can also contact Planning Aid for Scotland which provides a free and independent advice service for individuals and community groups across Scotland. They can be contacted at:- <http://www.planning-aid-scotland.org.uk/> or by calling their helpline on 0300 323 7602.

Other Contacts

This Enforcement Charter considers the enforcement of planning, however other services also deal with enforcement matters under different legislation. Depending in the nature of the issue in question, other services may be best placed to assist.

Dangerous Buildings

Telephone Building Standards on 0300 3000 144.

Graffiti and Vandalism

Such issues can be reported online at <https://www.renfrewshire.gov.uk/graffiti>.

Fly Tipping and Litter

Flytipping and litter issues can be reported online at https://myaccount.renfrewshire.gov.uk/service/Tell_us_about_litter.

Abandoned Vehicles

Abandoned vehicles can be reported online at https://myaccount.renfrewshire.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-e9a8544c-5897-404b-87c7-2a2d869f956f/AF-Stage-62d7a702-5a77-4d28-90bb-e04a9d3d26ca/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen&consentMessage=yes.

Complaints Procedure

If you are unhappy about the way we have delivered a service, you can complain in person, by phone, in writing, by email or via our online form at www.renfrewshire.gov.uk. Please tell us your full name and address, as much as you can about the complaint, what has gone wrong, and how you want to resolve the matter.

Our complaints procedure has two stages:

Stage 1

Frontline Resolution

We aim to resolve complaints quickly. This could mean on-the-spot apology and explanation if something has clearly gone wrong and immediate action to resolve the problem.

We will give you our decision at Stage One in five working days or less, unless there are exceptional circumstances.

If we can't resolve your complaint at this stage, we'll explain and tell you what you can do next. We might suggest that you take your complaint to Stage Two.

Stage 2

Investigation

Stage Two deals with two types of complaint; those that have not been resolved at Stage One and those that are complex and need detailed investigation.

When using Stage two we will acknowledge receipt of your complaint within three working days; discuss your complaint with you to understand why you remain dissatisfied and what outcome you are looking for, and give you a full response to the complaint as soon as possible and within 20 working days.

If our investigation will take longer than 20 working days, we will tell you. We'll agree revised time limits with you and keep you updated on progress.

Who else can I contact?

We hope that by following our complaints procedure you will find that your problem is solved quickly and effectively. If however, after completing our complaints procedures you still remain dissatisfied, you may of course still refer the problem to the Scottish Public Services Ombudsman.

Generally, you must contact the Ombudsman within 12 months. You can contact the Scottish Public Services Ombudsman by:

Address : Bridgeside House, 99 McDonald Road, Edinburgh, EH7 4NS or
Freepost SPSO

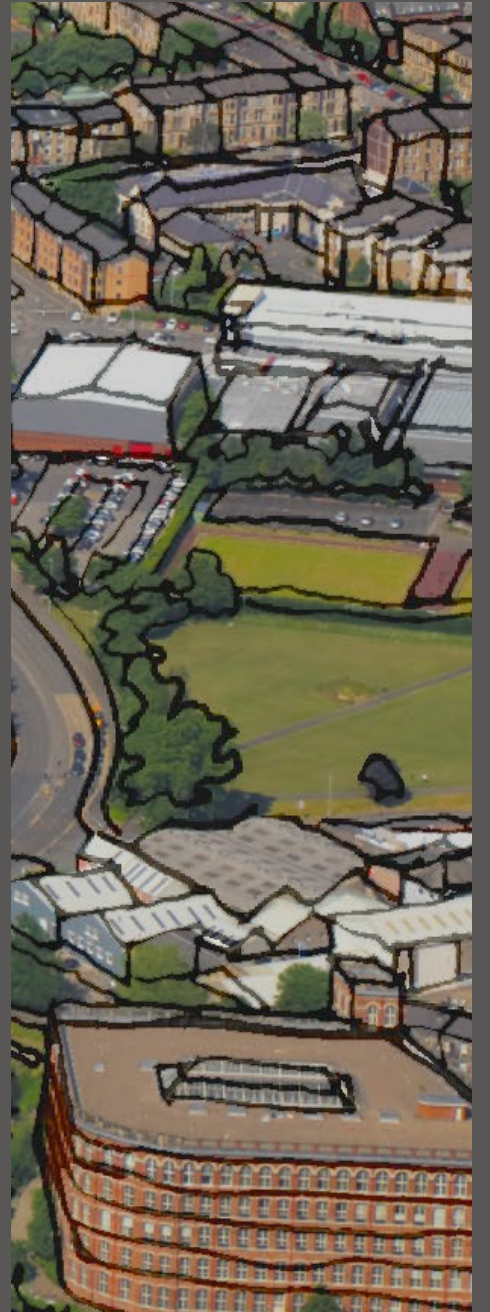
Email : ask@spsso.org.uk

Website : www.spsso.org.uk

Phone : 0800 377 7 330

Fax : 0800 377 7331







Renfrewshire
Council

Development Standards,
Chief Executive's Service
Renfrewshire Council
Renfrewshire House
Cotton Street, Paisley
PA1 1JD

T: 0300 300 0144

E: DC@renfrewshire.gov.uk