



Exeter
City Council

Enforcement Plan

September 2020

Development Management Planning Enforcement Plan

This Enforcement Plan relates to the service area for Development Management and should be read in conjunction with City Council's Constitution – in particular, the general Principles of Good Conduct at Part 5 (5b), and Article 12 - Decision Making, para 12.10 which states that:-

“the Council will follow the principles of good enforcement practice set out in the Government's Enforcement Concordat. In particular it will be open, helpful, proportional and consistent”

1. Introduction

Local Planning Authorities must consider investigating all breaches of planning control received. However, the actions to be taken for such investigation and, in particular, **the power to take formal enforcement action is discretionary and must be reasonable and proportionate**. Formal action should only be taken where the breach causes serious harm or is against adopted planning policies. Even then, if action is taken, it must be reasonable in the circumstances, and proportionate to the harm being caused.

1.1 Development Management is a service concerned with the development and use of land; it seeks to ensure that changes to our physical surroundings – buildings and land – are appropriate for their purposes and location and in line with policies and principles set out at national and local level.

1.2 The purpose of this enforcement plan is to provide a framework to ensure that the City Council works in an equitable, practical and consistent manner. We recognise that prevention is preferable, and therefore we will work to encourage people to comply with legal obligations but formal action including prosecution will be taken if it is in the public interest to do so. It must be remembered that formal enforcement action can take many months to conclude in more complex cases or where there is a request to rectify breaches.

1.3 We will seek to prioritise and direct effort using all available information on a particular case, assessing the risks involved in taking or not taking action, and give due consideration to the likelihood of compliance and non-compliance and ensure that enforcement action is necessary and proportionate to the matter concerned.

1.4 We will adopt a consistent approach to investigating similar cases, but will recognise that in planning matters each case must be considered on its own merits and under appropriate national and local policies.

1.5 We are committed to the open provision of information where this is possible under the GDPR and will provide advice in a format that is accessible and easily understood. Where it is requested, the information will be made available in other languages and formats.

1.6 We will be clear in making a distinction between what is required in law and those actions which we recommend as best practice but which are not compulsory. We will also ensure that we work in cooperation with other agencies to provide the best advice possible, though mindful of the sharing of data under the GDPR.

2. Dealing with notifications of alleged breaches

In normal circumstances notifications to the City Council of alleged breaches relating to planning matters will be received from the public via the [Council's website using the dedicated form](#). **This is the most efficient way to help us start investigating an allegation as quickly as possible.** Alternatively, we will accept a written submission; i.e. letter or email (planning@exeter.gov.uk) or details given over the telephone (01392 265223). To help us understand the alleged breach, we will need:

- a clear address;
- a clear description of the alleged breach; and,
- a plan if there is no property address.

Photos attached to an email will help to speed up our investigation and assessment of the case.

When we have the above information, we can create an enforcement case.

2.1 Following the above reporting procedure enables complaints/concerns to be assessed, registered correctly and prioritised, according to the severity of the issue being reported. This might include concerns relating to unauthorised works to listed buildings, works in conservation areas and works affecting trees subject to a tree preservation order. **Priorities will be based on the degree of risk from the situation, the seriousness of the contravention, the different means of remedying the situation and the particular circumstances of the case.** We will also have regard to any legal guidance; for example, that given in Government circulars and case law.

2.2 Therefore, it cannot be assumed that every alleged breach notified to the City Council will result in a formal enforcement investigation/action being undertaken. For example, it may be that the issues raised in the breach report do not constitute development or are a minor breach of planning law resulting in no material harm, or where there is no public benefit in enforcement action being taken.

2.3 The matter reported may also be permitted development according to the Town and Country Planning (General Permitted Development) Order (England) 2015 as amended, which grants consent to the development without the requirement to apply to the Local Planning Authority.

2.4 If a person notifying the City Council of an alleged breach identifies themselves by name and address and requests to be informed of the outcome, the City Council will usually seek to advise that person of the result of any investigation and any actions taken by the City Council. **Anonymous complaints will be given a low priority** or may not be investigated at all, depending on the circumstances of each report.

2.5 The City Council will treat the details of a person notifying the City Council of an alleged breach as confidential. However, there will be circumstances under which it may be necessary to divulge those details; for example, if the City Council relies on the information you have provided to take action through the Courts, at planning appeals, or where the City Council is required by law or statute to make such disclosure. Before this occurs, the relevant parties will be informed.

3 Steps relating to enforcement investigations and action

3.1 Where appropriate, the City Council **will normally aim to respond to written notification of an alleged breach within 28 working days** of being registered by the City Council.

3.2 The City Council will have regard to any specific statutory requirements relating to the service of planning enforcement notices.

3.3 Where a breach has been identified that is considered to be compliant with the Development Plan and therefore may have received permission or consent had it been applied for before the development was undertaken, **a retrospective planning application may be requested and submitted in an attempt to remedy the situation**. Under those circumstances, the taking of formal enforcement action may be deferred pending the determination of the application. Whether or not such deferment occurs will also depend upon the specific circumstances of the case.

3.4 The City Council recognises that most people want to comply with the law. Where a breach of planning control has been identified as having occurred, **seeking an informal negotiated solution will be preferred to the taking of immediate formal enforcement action**. Again, the appropriate manner of dealing with the matter will vary according to the specific facts relating to the matter.

4 Entry onto land

4.1 The City Council has various statutory powers which enable it to enter the land to investigate planning related breaches. Consideration will be given to the use of such powers where necessary.

4.2. Where entry onto land is refused or obstructed by the land or property owner, consideration will be given to seeking a warrant of entry from the Magistrates Court.

In the event of a person wilfully obstructing an authorised officer from effecting entry, prosecution proceedings may also be considered.

4.3 It should be particularly noted that the power to take formal action is discretionary. Where a breach of planning control has been identified further action may not be taken for several reasons. In planning law, certain breaches can become immune over time and in those circumstances, action cannot be taken.

Central Government guidelines also advise Local Planning Authorities that **where planning permission would be granted, without conditions being imposed, then it must consider the expediency of formal action as this may be unreasonable and disproportionate in the circumstances**.

5 Expectations of Exeter City Council

5.1 Staff handling cases will be polite and helpful at all times and seek to give clear and simple advice to both those reporting a breach, and those who are subject to further investigation. Where needed, advice will be provided in writing with clear guidance on actions and the timescale involved.

5.2 Staff will be provided with appropriate training and have access to experts in planning enforcement to enable them to pursue actions that are appropriate and proportionate. Where there are no in-house resources or skills readily available to pursue the actions deemed necessary, the Council will identify external parties to assist.

5.3 All enforcement investigations must have due regard to the Human Rights Act particularly in respect of the right to a fair trial and right to respect for private and family life, home and correspondence.