

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ENFORCEMENT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 **(As amended by the Planning Compensation Act 1991)**

ISSUED BY: Exeter City Council (the “City Council”)

1. NOTICE

This notice is issued by the City Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. The City Council considers it expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land lying on the north side of Western Road, St Thomas, Exeter EX4 1EQ shown edged red on the attached plan (the “**Land**”).

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission,

- i) the unauthorised change of use of the Land from a sui generis use to open storage for various items including vehicles and for the siting of two cabins and a shipping container; and
- ii) the laying of hard core at the Land to create a hardstanding.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last ten years (for the change of use) and four years (for the physical works/development).

The development is contrary to Paragraphs 119,120, 126, 134, 159, 161-162 and 168 of the National Planning Policy Framework, Objectives 8 and 9 and Policy CP12, CP16 and CP17 of the Exeter Local Development Framework Core Strategy and Saved Policies AP1, EN2, EN4, DG1 and DG3 of the Exeter Local Plan First Review 1995-2011 because:-

- i) the change of use with associated development and items for storage, is of a poor design quality which has resulted in a poor visual appearance, which harms the character and appearance of the area;
- ii) the site is within flood zone 3, and given the absence of a flood risk statement, the flood risk has not been assessed or any mitigation provided, therefore the development may increase flood risk elsewhere;

- iii) The additional transport movements and suitability of the access have not been assessed, and may lead to highway safety issues given the single track access which is shared with the allotments and Exwick playing fields;
- iv) in the absence of a planning application in advance of the development proceeding, the identified harm has not been clearly and convincingly justified.

5. WHAT YOU ARE REQUIRED TO DO

You must:

- i) Cease use of the Land as open storage;
- ii) Remove two cabins, shipping container, vehicles and other stored items on the Land; and
- iii) Remove the hard surface on the Land and re-seed to grass.

6. TIME FOR COMPLIANCE

The period for compliance with the steps set out in paragraph 5 is six (6) months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 9th August 2023 unless an appeal is made against it beforehand.

Dated: 28th June 2023

Signed:



Hayley Stokes

On behalf of: Exeter City Council, Civic Centre, Paris Street, Exeter EX1 1JN

Nominated Officer: Stacey Salter

Telephone Number: 01392 265175

Email Address: stacey.salter@exeter.gov.uk

LPA Reference: ENF/22/00038

ANNEX

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Planning Inspectorate acting on behalf of the Secretary of State before the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the City Council.

APPEAL INFORMATION SHEET

Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the [Appeals Casework Portal](#); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.

EXPLANATORY NOTE

EXETER CITY COUNCIL has issued an enforcement notice and you are served with a copy of that notice as you have an interest in the Land.

Copies of the notice have also been served on the parties listed below.

YOUR RIGHT OF APPEAL

You can appeal against this enforcement notice. If you want to appeal against this enforcement notice you need to submit a copy of the enforcement notice a copy of your appeal and a plan and other documents in support of your appeal.

You can do this by following the instructions on the enclosed information sheet published by the Planning Inspectorate which gives details of how to make an appeal

You MUST make sure that the Planning Inspectorate receives your appeal before the effective date on the enforcement notice (see paragraph 7).

GROUNDS OF APPEAL

Under section 174(2) of the TCPA 1990 you may appeal on one or more of the following grounds that:

- (a) In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- (b) Those matters have not occurred.
- (c) Those matters (if they have occurred) do not constitute a breach of planning control.
- (d) At the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
- (e) Copies of the enforcement notice were not served as required by section 172 of the Town and Country Planning Act 1990.
- (f) The steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by such breach.
- (g) Any period specified in the notice in accordance with section 173(9) of the Town and Country Planning Act 1990 falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

FEES

If you appeal under ground (a) of section 174(2) of the TCPA 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay the fee of £924.00 which is equivalent of applying for planning permission for the development alleged in the notice. You should pay the fee to Exeter City Council.

STATEMENT TO ACCOMPANY APPEAL

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, the enforcement notice will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, are taken within the period specified in paragraph 6 of the notice.

FAILURE TO COMPLY with an enforcement notice which has taken effect can result in prosecution under s179 of the Town and Country Planning Act 1990 and/or remedial action and a claim for the costs of the works by the City Council under s178 of the Town and Country Planning Act 1990.

Service of Notice

Persons served with a copy of this enforcement notice are as follows:

Beach Bros Limited of Sedge Mead Works, Western Road, St. Thomas, Exeter, EX4 1EQ
The Owner/Occupier(s), Land North side of Western Road, St Thomas, Exeter EX4 1EQ

Land North of Beach Bros, Western Road, Exeter,

