

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ENFORCEMENT NOTICE - OPERATIONAL DEVELOPMENT

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

1. This Enforcement Notice is issued by Exeter City Council as Local Planning Authority because it appears to the Council (i) that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the land described below, and, (ii) that it is 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 PERSON(S) AND LAND TO WHICH THE NOTICE RELATES**

Mr P Russell and Mrs N Russell of the land at **68 Broadway, Exeter, Devon, EX2 9LY**, shown edged red on the attached plan ('the Land').
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Operational development without planning permission on the Land, namely:-
 - (a) The construction of a garage which is 4.4m wide, 9.4m in length with an eaves height of 2.2m and ridge height of 4.4m
4. **THE COUNCIL'S STATEMENT OF REASONS FOR ISSUING THIS ENFORCEMENT NOTICE**
 - (a) The garage harms the character and appearance of the area contrary to objective 9 and Policy CP17 (Exeter City Council Core Strategy, 2012)
 - (b) The volume, shape and massing of the garage does not relate well to the character and appearance of the adjoining building and surrounding townscape, therefore not in adherence with Policy DG1 (Local Plan First Review, 2005)
5. **WHAT YOU ARE REQUIRED TO DO**
 - (a) Reduce the width of the garage to 2.9m to match adjoining garage
 - (b) Reduce the length of the garage to 6.4m
 - (c) Ensure a maximum height to eaves of 2.2m and height to ridge of 4.4m
 - (d) External walls to be finished with red brick to match adjoining garage
 - (e) Construct the pitch roof from slate to match adjoining garage
6. **TIME FOR COMPLIANCE**
 - (a) The garage shall be complete, as per the requirements in Section 5, by 16 December 2019.

7. THE DATE ON WHICH THIS ENFORCEMENT NOTICE TAKES EFFECT

This enforcement notice takes effect on 17 June 2019 unless an appeal is made against it beforehand.

A. Lobbi

Signed Dated: 8th May 2019
City Development Manager

All communications to the Council regarding an appeal against this notice should be sent to City Development, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1NN

All other communications regarding this notice should be sent to the Corporate Manager Legal Services, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1JN

The land this notice relates:



Red line: Boundary of property
Blue line: Approx. location of unauthorised garage

ANNEX

EXETER CITY COUNCIL has issued an enforcement notice relating to land at 68 Broadway, Exeter, Devon, EX2 9LY and you are served with a copy of that notice as you have an interest in the Land.

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:

- Online at the Planning Casework Service area of the Planning Portal (<https://www.gov.uk/appeal-enforcement-notice>); or
- By post to The Planning Inspectorate, Room 4a, Temple Quay House, 2 The Square
BRISTOL BS1 6PN.

You MUST make sure that the Planning Inspectorate receives your appeal before the effective date on the enforcement notice.

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 TCPA 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 TCPA 1990 falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

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 a fee of £206.00. You should pay the fee to Exeter City Council.

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 TCPA 1990 and/or remedial action and a claim for the costs of the works by the Council under s178 of the TCPA 1990. Copies of these sections are attached.

EXTRACTS FROM THE TOWN AND COUNTRY PLANNING ACT 1990

178 – Execution and cost of works required by enforcement notice.

- (1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may -
 - (a) enter the land and take the steps; and
 - (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.
- (2) Where a copy of an enforcement notice has been served in respect of any breach of planning control
 - (a) any expenses incurred by the owner or occupier of any land for the purpose of complying with the notice, and
 - (b) any sums paid by the owner of any land under subsection (1) in respect of expenses incurred by the local planning authority in taking steps required by such a notice to be taken,Shall be deemed to be incurred or paid for the use and at the request of the person by whom the breach of planning control was committed.

179 – Offence where enforcement notice not complied with.

- (1) Where, at any time after the end of the period for compliance with an enforcement notice, any step required by the notice to be taken has not been taken or any activity required by the notice to cease is being carried on, the person who is then the owner of the land is in breach of the notice.
- (2) Where the owner of the land is in breach of an enforcement notice he shall be guilty of an offence.
- (3) In proceedings against any person for an offence under subsection (2), it shall be a defence for him to show that he did everything he could be expected to do to secure compliance with the notice.
- (4) A person who has control of or an interest in the land to which an enforcement notice relates (other than the owner) must not carry on any activity which is required by the notice to cease or cause or permit such an activity to be carried on.
- (5) A person who, at any time after the end of the period for compliance with the notice, contravenes subsection (4) shall be guilty of an offence.
- (6) An offence under subsection (2) or (5) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under the subsection in question by reference to any period of time following the preceding conviction for such an offence.
- (7) Where –
 - (a) a person charged with an offence under this section has not been served with a copy of the enforcement notice; and
 - (b) the notice is not contained in the appropriate register kept under section 188It shall be a defence for him to show that he was not aware of the existence of the notice.
- (8) A person guilty of an offence under this section shall be liable [on summary conviction, or on conviction on indictment, to a fine.]
- (9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.