

BREACHES OF PLANNING CONTROL

ADVICE TO THOSE CARRYING OUT WORK OR CHANGING
THE USE OF LAND OR BUILDINGS



Planning Enforcement

Leicester City Council aims to protect and improve the local environment through its planning service.

Each year members of the public and other organisations raise concerns about sites where development may have taken place without planning permission. This leaflet explains how we undertake our investigations and the implications for owner/occupiers under investigation.

The Need For Planning Permission And Other Consents

The construction of new buildings, extensions to buildings, or changes of use of land or buildings generally requires planning permission from the Council.

Other consents under the Planning Acts may also be needed for the display of advertisements, works to trees, demolitions and works to listed buildings

Building works will also need to be carried out in accordance with the building regulations. These are dealt with separately by the City Council's Building Control Group. (telephone 0116- 454 3160). You will often need both Building Regulations approval and planning permission.

The City Council would always advise that you check with us before carry out any changes to your property. Carrying out work or changing the use without the proper consents can be very costly and can adversely affect the value and chances of selling your property.

Breaches of Planning Control

Any unauthorised work or changes that need planning permission may be a breach of planning control. This can include, but is not limited to, the following:

- Works being carried out without planning permission or after permission has been refused,
- Unauthorised changes of use of land or buildings,
- non-compliance with conditions imposed by a planning permission,

- Works not being carried in accordance with the plans approved as part of a planning permission,
- Advertisements displayed without consent
- Works to a listed building without consent
- Works to trees without the necessary consent

Investigating a complaint

If we are able to identify you as the owner, occupier or other person who might be the subject of enforcement action we will:

- Carry out a full and independent investigation of the matter before deciding on any action. If it is necessary to enter the land or gain entry to a building, normally an appointment will be made. However powers do exist to gain entry to premises if the owner/occupier refuses permission
- Tell you which Officer is dealing with the case and give you an opportunity to discuss the matter with any relevant Officer,
- Tell you what the conclusions of our investigations are. We will write to you saying what you have done wrong, what we would like you to do to put matters right, how long we will allow you to do this, and what will happen if you do not put matters right
- Write to warn you if we decide to issue an Enforcement Notice or start prosecution action
- Ensure that any requirements for compliance will only be those necessary to ensure the problem is resolved
- Give you advice on contacting your Ward Councillors; their names and contact details can be found by telephoning Members Services on (0116) 454 6360, or on the internet at <http://www.leicester.gov.uk/councillors-democracy-and-elections/>

Confidentiality

All investigations are carried out on a strictly confidential basis and we will not reveal a complainant's details without their permission. With serious breaches of planning control, which warrant prosecution, or which result in an appeal, the complainant may be invited to give a witness statement if their evidence is considered crucial. Such occasions are rare and involvement is on a voluntary basis.

We will also respect the confidentiality of you or anyone else who may be involved in the alleged breach.

What you should do

You should always respond to any contact or request for a meeting with officers promptly. You should also respond as quickly as possible to any request for information by officers of the Council. Bear in mind that the purpose of the initial contact is to try and establish as quickly as possible whether there has in fact been a breach of control.

If a breach of control is confirmed, the role of officers is to try to resolve the matter as quickly and as painlessly as possible. The enforcement officer will advise the landowner or occupier what options are available to them in order to avoid enforcement action.

If the Enforcement Officer advises you that there is a breach and that planning permission would not be granted you should stop the activity and remove or reinstate any unauthorised works immediately.

You are entitled to make a retrospective application for planning permission; however such an application would not necessarily delay enforcement action. The Enforcement Officer should be able to advise you whether it is worth making an application.

You may believe that the suspected breach of control is lawful under the planning act and should therefore be immune from enforcement action. In this case the most appropriate form of action may be the submission of an application for a Certificate of Lawful Use or Development.

Where officers advise that in their view a breach of control is taking place, they will clearly explain any implications of carrying on with the unauthorised development. In the case of building work, carrying on without planning permission may result in abortive costs for you if permission is refused or conditions are attached which require work to be altered.

It is the policy of the Council to investigate confirmed breaches of control but in doing so, it will deal with the complaint in a fair and evenhanded way.

Deciding on enforcement action

The Enforcement Officer will tell you the findings of the investigation and of the planning issues raised. Enforcement action is discretionary and if the breach is not causing harm, in planning terms, then it is possible no further action will be taken.

A breach causes harm if it is contrary to planning policies and/or is physically unacceptable e.g. causes nuisance for neighbours, looks unsightly, is a traffic hazard.

Where planning harm exists then enforcement action is likely to follow. An Enforcement Notice may require the development to be removed or use of land to stop. If you are ignoring or violating the conditions placed upon a planning permission then a Breach of Condition Notice may require compliance with one or more of the conditions.

Prosecutions

If you have committed an offence you are likely to be prosecuted. Offences include:

- Failure to comply with an Enforcement Notice
- Failure to comply with a Breach of Condition Notice
- Failure to correctly complete and return a Planning Contravention Notice or a “Section 330 Notice”
- Illegal display of an advertisement
- Unauthorised works to a listed building
- Unauthorised work to a protected tree

There is no right of appeal against a decision of the Council to prosecute.

Your Right Of Appeal

If the Local Planning Authority decides to take enforcement action the decision may be challenged by lodging an appeal. The appeal process is not available in all cases, e.g. Planning Contravention Notices or Breach of Condition Notices.

Appeals may be lodged against an Enforcement Notice before the notice comes into effect. You will normally only have one month to make an appeal.

The Council will always encourage people who have received notices to seek the help and advice of a solicitor, planning consultant or suitably qualified person but Officers in the Council can, without prejudice, give guidance on the general procedures involved at an appeal and the different appeal formats and procedures. If you are served with a notice and want to contest it, you will need to act quickly.

Other Publications Available from this Authority

Planning Permission – A Guide for Business

Making Your Enforcement Appeal

Planning - A Guide for Householders

How to contact us

The Compliance and Monitoring Team is part of the Development Control Service based at the City Council, City Hall, 115 Charles Street, Leicester, LE1 1FZ; however please be aware that the officer will quite often be out of the office or otherwise unavailable and is unlikely to be able to see you in person without an appointment. You should therefore contact the office by letter, phone or e-mail. The contact details will be given in our letters to you or you can contact us through the Council’s Customer Service line on (0116) 454 1000 or by e-mail to planning@leicester.gov.uk