

Cheshire West & Chester Council

Local Planning Enforcement Plan



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Cheshire West
and Chester

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1 What is planning enforcement?

1.1 Planning Enforcement is a process to investigate cases where development without planning permission is alleged to be taking place and to ensure that development with planning permission accords with the approved plans and planning conditions.

1.2 Whilst the investigation of complaints is mandatory, taking enforcement action is discretionary and the Council will take a proportionate approach in responding to alleged breaches of planning control. This means that the impacts of any unauthorised development will be assessed at an early stage and the case prioritised accordingly. The Council's focus will be on those cases where the impacts are significant and/or irreversible.

1.3 It is recognised that public confidence in the planning system would be quickly undermined if development is not monitored or unauthorised/unlawful development is allowed to proceed without intervention by the Local Planning Authority. The Council's primary reason for taking enforcement action is when it appears to be in the public interest to do so, having regard to the risk and harm arising from the alleged breach. In this respect the approach taken by the Council is to seek relevant information from complainants/witnesses at an early stage. This will help prioritise the case and officers will work with complainants and other relevant parties to identify resolution quickly, having regard to the wider public interest.

What are breaches of planning control?

- Unauthorised demolition or erection of a building
- Development not in accordance with the approved plans of planning permissions
- Unauthorised change of use of a property
- Unauthorised works to trees protected by a tree preservation order or in a conservation area
- Carrying out works to a listed building without listed building consent
- Failure to comply with the conditions attached to a planning permission
- Failure to properly maintain land so that it affects the amenity of the area
- Displaying a sign or advertisement without advertisement consent

What are not breaches of planning control?

- Parking of commercial vehicles in residential areas or on grass verges
- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection
- Parking of a caravan within the curtilage of a residential property provided that it is stored, or used as an extra bedroom, and not used as a separate, self-contained residential unit

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- Obstruction of a highway or right of way
- Boundary disputes (civil matter)
- Deeds and covenants (civil matter)
- Where development is 'permitted development'

2 How do I report breaches of planning control?

2.1 The simplest and most direct way to report a planning enforcement problem is by completing the online form on the Council website following this link:

https://online.cheshirewestandchester.gov.uk/CitizenPortal/formPortal.aspx?form=Planning_Enforcement

2.2 This function enables detailed information to be provided, including location of the alleged breach; such information can be invaluable to quickly identification and investigation. It is also important to describe how you are being affected (e.g. noise, overbearing impact, etc.) so that we can fully assess harm.

2.3 If you do not have Internet access, then you can contact the Council on 0300 123 7027.

2.4 We do not accept anonymous complaints. Complainants can be assured that we treat their information in the strictest confidence. However, if complainants are still uncertain then they can report breaches through their local Parish Council or Ward Councillor. Contact details for these can be found on the Council's website.

2.5 If we do not receive sufficient information about the alleged breach, for example nature or the location, then we may be unable to accept the complaint. Likewise, if the matter is clearly of a very minor nature or not related to planning then we will normally decline to investigate it. However, if the matter relates to another Council function then we will re-direct it accordingly.

3 What happens next?

3.1 Upon registration of the complaint a dedicated case officer will be appointed and they will undertake an initial investigation, which may include a site visit. The case officer will decide whether the case warrants further action and will update the complainant. Depending on the nature and scale of the breach, the case officer may inform and update the local Parish Council and Ward Member and any other interested parties.

4 When will action commence?

4.1 A significant number of complaints are found not to involve breaches of planning control, in which case no action can or will be taken. If the matter relates to another Council function then we will pass on the details to that department.

4.2 If there is a breach but no identifiable harm is being caused, it is unlikely that it will be expedient to take action.

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4.3 Many enforcement cases involve minor technical breaches which can be resolved relatively quickly. In these cases, we will look to make contact with the land owner or developer to discuss any works or action required to remedy any harm arising from the breach. In some cases a retrospective planning application may be submitted which, if approved, enables us to attach conditions to control any impacts arising.

4.4 Formal action will be commenced when a breach of planning control unacceptably harms local amenities and cannot be resolved by negotiation; especially where any such harm is ongoing and/or potentially irreversible.

4.5 Commencement of enforcement action will;

- Always be commensurate with the breach of planning control to which it relates;
- Not normally be taken to remedy trivial or technical breaches of control
- Not normally be progressed whilst a planning application is being determined by the Council or where a “live” appeal has been submitted to the planning inspectorate. This will depend on the severity of harm a breach is causing.

4.6 A case will be closed when:

- It is not expedient to take further action
- There is a breach and a resolution has been found through successful negotiation
- There is a breach and formal enforcement action has been taken and complied with.

4.7 In all cases the reason why the determination was made will be recorded by the case officer.

4.8 The quickest and most effective way of resolving enforcement matters, especially of a less severe nature, is through dialogue and negotiation. Taking a collaborative approach is always our first option unless the harm is so severe or irreversible that immediate formal action is unavoidable. Please note if formal action is necessary, due to the complexities of planning law, it can take several months, and in complex cases years, to satisfactorily resolve problems.

5 What happens about untidy land?

5.1 The council can serve an ‘amenity’ notice on the owner of any land or building where it is in an unreasonably untidy condition and we consider that it has an adverse impact on the amenity of the area. This is done under section 215 of the Town and Country Planning Act 1990 (as amended).

6 What if the complaint is about me?

6.1 We recognise that some breaches of the planning rules are genuine mistakes, for example where the need for planning permission was not established before commencement of work. The enforcement system does not exist to punish people for simply straying outside of the rules. However there are also cases where planning laws or the terms of a planning permission have been significantly contravened or where the unauthorised work is intentional. The Council does have legal powers to deal with various matters, including concealment and proceeds of crime and we will look to exercise those powers if there is expediency to do so. We will always look to provide reasonable opportunity for voluntary compliance

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for most cases in the first instance; however, we will also look to take swift action if the breach is very serious or attempts to resolve amicably fail. As part of any discussion during the investigation the council may:

- allow an opportunity to apply for retrospective planning permission where for example the development could be acceptable having regard to policy and other material planning considerations;
- seek resolution, e.g. by stopping the use, removing or reducing the size of an unauthorised building;
- consider taking formal action to resolve the matter

7 How do you make sure approved development is carried out to plan?

7.1 Monitoring is an important function in the Council's Development Management role. The Council receives in excess of 5,000 applications a year and will not systematically monitor all developments.

7.2 Whilst we try where possible to be proactive, we rely on others to report suspected breaches of planning control to us.

7.3 It is the responsibility of the applicant / owner to ensure that the development is carried out in accordance with approved plans and that any necessary amendments are sought before they take place. Making changes to approved plans without permission can invalidate a planning permission.

8 Further information

- Further details on the planning enforcement system, including links to external websites and the Council's planning enforcement register can be viewed on the Council website using the following link:
http://www.cheshirewestandchester.gov.uk/residents/planning-and-building-consulta/planning-service/planning_enforcement.aspx
- National Guidance on Planning Enforcement can be viewed here:
<http://planningguidance.communities.gov.uk/blog/guidance/ensuring-effective-enforcement/>
- Link to National Association for Planning Enforcement (NAPE):
[http://www.rtpi.org.uk/knowledge/networks/planning-enforcement-\(nape\)/](http://www.rtpi.org.uk/knowledge/networks/planning-enforcement-(nape)/)

Accessing Cheshire West and Chester Council information and services

Council information is also available in Audio, Braille, Large Print or other formats. If you would like a copy in a different format, in another language or require a BSL interpreter, please email us at equalities@cheshirewestandchester.gov.uk

إذا أردت المعلومات بلغة أخرى أو بطريقة أخرى، نرجو أن تطلب ذلك منا.

যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

Pokud byste požadovali informace v jiném jazyce nebo formátu, kontaktujte nás

Jeżeli chcieliby Państwo uzyskać informacje w innym języku lub w innym formacie, prosimy dać nam znać.

ਜੇ ਇਹ ਜਾਣਕਾਰੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਜਾਂ ਕਿਸੇ ਹੋਰ ਰੂਪ ਵਿਚ ਚਾਹੀਦੀ, ਤਾਂ ਇਹ ਸਾਥੋਂ ਮੰਗ ਲਵੋ।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

Türkçe bilgi almak istiyorsanız, bize başvurabilirsiniz.

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Tel: 0300 123 8 123 **Textphone:** 18001 01606 867 670

email: equalities@cheshirewestandchester.gov.uk

web: www.cheshirewestandchester.gov.uk