

EXETER CITY COUNCIL

**PLANNING COMMITTEE
26 APRIL 2010**

ENFORCEMENT PROGRESS REPORT

1.0 PURPOSE OF REPORT

1.1 To update Members on enforcement matters.

2.0 CASES OPENED AND CLOSED BETWEEN 1 MARCH 2010 AND 12 APRIL 2010

Cases opened: 8

Cases closed: 3

Outstanding number of cases: 115

3.0 NOTICES ISSUED

3.1 ENF/09/79 – 1 Buddle Lane, Exeter – Enforcement Notice issued on 5 March 2010 for the erection of a front porch having a height of above 3 metres above ground level, the erection of a metal structure and metal work in the front garden and the installation of a solar panel on a roof at the rear.



Solar Panel ("wind turbine" previously removed)



Metal structure in front garden

The Notice requires the owner to:

1. Remove the porch or modify it so that its dimensions are not greater than those allowed under permitted development.
2. Remove the metal structure and other metal work from the front garden
3. Remove the solar panel
4. Remove from the land all building materials and rubble arising from compliance with requirements 1-3.

The Notice takes effect on 8 April 2010 and gives a period of 4 months for compliance.

4.0 NOTICES COMPLIED WITH

None

5.0 CURRENT APPEALS

- 5.1 ENF/08/98 – Silver Springs, 12 Richmond Road, Exeter – Listed Building Enforcement Notice issued on 2 September 2009 for
1. Installation of uPVC windows, fascia boards and rainwater goods on front and rear elevations of the Building;
 2. Installation of brick boiler house and pipework on the Land at the rear of the Building;
 3. Installation of a timber panel fence on the Land to the south east boundary between the garden and parking area;
 4. Installation of a structure comprising a dwarf wall and plastic rooflight with a wooden frame on the Land at the front of the Building.

An appeal was submitted on 19 November 2009 and is being dealt with by written representations. The Council's statement was submitted on 10 December 2009.

- 5.2 ENF/09/72 – 44 Sidwell Street, Exeter – Enforcement Notice issued on 16 December 2009 for the installation of an extraction duct on the north western elevation of the land. An appeal was submitted on 5 February 2010 and is being dealt with by written representations. The Council's statement was submitted on 15 March 2010.
- 5.3 ENF/09/39 – 11 Exeter Road, Topsham, Exeter – Enforcement Notice issued on 14 January 2010 for the construction of a car port and garden room and modification of the garage roof. An appeal was submitted on 8 March 2010 and is being dealt with by written representations. The Council's statement is due on 13 April 2010.

6.0 ENFORCEMENT APPEAL DECISIONS

ENF/09/19 – 46 High Street, Topsham, Exeter – Enforcement Notice served on 8 April 2009 for the modification of the roof on the rear wing of the building. An appeal was received on 3 September 2009 and was dealt with at a Public Inquiry. The appeal was allowed on 18 March 2010 and planning permission granted.

- 6.1 The Planning Inspector concluded that the modifications carried out to the roof had not harmed the character or appearance of the building or the conservation area and had not materially affected the living conditions of any nearby residents. He decided therefore that the appeal should succeed. He quashed the notice and granted planning permission subject to a condition that no further windows, dormer windows or other openings shall be formed in the roof or gable end of the rear projection. At the public inquiry the appellants applied for an award of costs. The Inspector concluded that an award of costs was not justified, even on a partial basis.
- 6.2 ENF/09/87 – Ganges Restaurant, 156 Fore Street, Exeter – Enforcement Notice served on 16 November 2009 for the installation of an extraction unit on the roof at the rear elevation. An appeal was received on 4 January 2010 and was dealt with by written representations. The appeal was dismissed on 1 April 2010.
- 6.3 The Planning Inspector concluded that the extraction unit had a seriously harmful effect on the character and appearance of the Central Conservation Area. Although there was no evidence that it caused an undue odour problem

he agreed with the Council that it did not accord with the noise protection aim of ELP Policy S5. He decided therefore that the appeal should fail. The appellants applied for an award of costs. The Inspector concluded that an award of costs was not justified.

7.0 OTHER ISSUES

- 7.1 ENF/09/21 – 1 Bickleigh Close, Exeter – A Planning Contravention Notice was issued on 11 February 2010 requiring the owners of the property to provide details relating to further alleged unauthorised works being carried out at the rear of the property. The owners failed to respond to the PCN but instead wrote to Legal Services stating that the “garden shed” structure did not require planning permission. A further letter was sent to the owners of the property on 31 March 2010 advising that they submit the information requested in the PCN by 16 April 2010 otherwise formal enforcement proceedings would commence. Members will be updated at the next meeting.
- 7.2 ENF/09/94 – The Vapormatic Company Limited, Sowton Industrial Estate, Exeter – Unauthorised removal of an oak tree subject to a Tree Preservation Order (TPO). The matter was heard before Honiton Magistrates Court on 31 March 2010. The Council provided evidence to the Court that the TPO had been served on the company in line with procedure and that there was corporate knowledge of the existence of the TPO on this site. The Court was also provided with drawings from the planning application (reference 09/1348/03) submitted by The Vapormatic Company Limited one month after the oak tree was removed detailing the company’s expansion plans for the goods yard directly behind the area where the tree was felled. The Council invited the Court to consider the degree of financial gain that it appeared The Vapormatic Company Limited attempted to achieve from the removal of the oak tree and the subsequent expansion of the goods area.
- 7.3 Unfortunately, the Court did not support the Council’s view that the company had derived any financial gain from the events which took place on site. The Court acknowledged that the representative of the company had co-operated fully with the Council’s investigations and gave credit to the company for admitting the offence at the earliest opportunity.
- 7.4 The Vapormatic Company Limited was ordered to pay a fine in the sum of £1000 for the unauthorised removal of the oak tree, and the Council’s costs in the sum of £2730 within 14 days of the Hearing. The company will also be required to replant a replacement tree in a location to be agreed with the Council.

8.0 RECOMMENDATION

- 8.1 That this report be noted.

**RICHARD SHORT
HEAD OF PLANNING AND BUILDING CONTROL
ECONOMY AND DEVELOPMENT DIRECTORATE**

Local Government (Access to Information) 1985 (as amended).
Background papers used in compiling the report: none.