

Planning Compliance & Unauthorised Development Enquiries; Frequently asked questions

1. Does all building work require planning permission from the Council ?

Some types of work do not meet the legal definition of 'development' meaning it is not subject to the Planning Regulations at all, and a further range of work can be carried out without needing planning permission from the Council under the nationally applicable General Development Orders. Please see the Council's website www.plymouth.gov.uk/doineedplanningpermission or www.planningportal.gov.uk/guide for further details.

2. Is it illegal to do building work without planning permission if required ?

Not as such in most cases, but if the works are considered to be unacceptable for any reason by the Council then the Council may serve an enforcement notice requiring the development to be changed or even completely removed. Some unauthorised developments including listed building alterations, and unauthorised advertisements, however, are illegal and may result in prosecution by the Council if considered to be harmful and unacceptable.

3. Is the Council required to take action to change or remove unauthorised developments whenever these are identified ?

The Council has to first establish that the works require planning permission from the Council, and then needs to consider whether the works are demonstrably harmful in terms of their environmental impact and whether they comply with the Council's adopted planning policies. Planning enforcement action is therefore a discretionary activity.

4. Is there a time limit on when the Council is able to take action against unauthorised development ?

Yes, the Council has effectively 4 years to take action if considered necessary against unauthorised building works, and 10 years in respect of unauthorised changes of use and failure to comply with a condition attached to a planning permission. No action can be taken if unauthorised development has been substantially complete for longer than these time periods.

5. My neighbour has built an extension that does not need planning permission from the Council but still has a harmful effect on my property, can the Council investigate and take action against this ?

Although some building works do not require planning permission from the Council, this does not mean that these will have no impact on neighbouring properties, and in some cases can adversely affect neighbouring occupiers. You may need to consider whether you are able to take steps yourself to mitigate against these problems, but you will need to deal with this as a private matter.

6. Can the Council enforce covenants and similar restrictions on title deeds of property, or take these into account in deciding whether to take planning enforcement action ?

These are entirely civil law matters and cannot be taken into account at all by the Council in deciding whether planning enforcement action may be appropriate.

7. Is the Party Wall Act, if it applies, taken into account in planning compliance investigations ?

This is also purely civil legislation and cannot be enforced, or taken into account, by the Council in carrying out planning compliance investigations. If you have reason to consider that a neighbour has failed to comply with any of the provisions of this legislation then you may need to consult a solicitor to assist you further with this.

8. Is planning compliance action taken to ensure building work is structurally safe, insulated, appropriately fireproof, and/or is adequately ventilated etc ?

These matters are dealt with under the Building Act by Building Control Surveyors. Please see the Council's website www.plymouth.gov.uk/buildingcontrol , or www.planningportal.gov.uk/buildingregulations , or contact buildcon@plymouth.gov.uk for further details.

9. Is it an offence to fail to comply with a condition that has been attached to a planning condition that has been attached to a planning permission ?

Again this is not illegal as such, but applicants should take care to comply with all conditions attached to their planning permission as the Council can serve an enforcement notice against any breaches which if not complied with can result in prosecution.

10. Can the Council take action against work which is suspected to encroach upon a neighbour's property ?

The Council cannot arbitrate over the precise position of boundaries, and neither can it take action simply because works are considered to extend beyond the property boundary. This is a civil law issue.

11. Can the Council take planning enforcement action against unauthorised works and advertisements on the public highway ?

These matters are actionable under the Highway Act, and should be referred to the Council's Transport Service for investigation.

12. Are unauthorised development enquiries/complaints treated in confidence by the Council ?

The Council will not reveal who has contacted it about suspected unauthorised building works or other developments, but in many cases will need to contact the persons responsible for the development and so this may indirectly alert them to the fact that the Council has received an enquiry/complaint. Although treated in strict confidence, your contact details will be required so that you can be advised of the outcome of the Council's investigations.

13. Does the Council investigate anonymous reports/complaints about alleged unauthorised building works or developments ?

The Council will not normally investigate anonymous reports/complaints as these can often be made through malice and/or without foundation. In exceptional circumstances and entirely at its discretion, the Council may investigate an anonymous complaint/enquiry if it considers this is necessary.

14. Can the Council intervene if my neighbour suspects I have made complaint and issue threats or otherwise harasses me as a result of this ?

The Council can only investigate issues relating to planning law and cannot become involved at all in such matters. Advice or assistance from the Police should be sought if these problems arise and if this is considered necessary.

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