

Enforcement and possible unauthorised development

1. Introduction

This report considers current matters of enforcement and possible unauthorised development. Authority to take planning enforcement action is delegated to the Head of Economy, Planning and Strategic Housing. Matters that require a Committee decision are reported, together with delegated decisions to take action.

It is not an offence to carry out works without planning permission and the National Planning Policy Framework (NPPF) states that enforcement action is discretionary and that local planning authorities should act proportionately in responding to suspected breaches of planning control. Local authorities are also advised to take action only where it is appropriate to do so. The purpose of this report is therefore to report to Committee decisions with regard to enforcement action and/or to seek approval for further action.

2. Policy

The Council's Approach to Planning Enforcement is set out in the adopted Local Enforcement Plan. The essential thrust of the Plan is that we will not condone wilful breaches of planning law, but we will exercise our discretion regarding enforcement action if it is considered expedient to do so. Our priorities with regard to enforcement are:

- To focus our resources to ensure that the most pressing and harmful issues are addressed appropriately.
- In determining the expediency of enforcement action we will have regard to the seriousness of any harm which is evident as a result of a breach of planning control.
- Matters which can potentially have a serious impact on the safety or amenity of residents or occupiers of property or on the natural environment will take priority over minor infractions and matters of dispute between neighbours.

3. Items

Each item contains a full description, details of any investigation, and an assessment of the situation and concludes with a recommendation.

This report relates to:

Item 1 Delegated Decisions on Enforcement Action

All information, recommendations and advice contained in this report are understood to be correct at the time of writing this report. Any change in circumstances will be updated verbally at the Committee meeting. Where a recommendation is either altered or substantially amended between preparing the report and the Committee

meeting, a separate sheet will be circulated at the meeting to assist Members in following the modifications proposed.

4. Human rights

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English law. Any recommendation either to take or not to take enforcement action has been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict this will be highlighted in the individual report on the relevant item.

5. Financial implications

There are no direct financial implications arising from this report. However, in the event of an appeal, further resources will be put towards defending the Council's decision. Rarely, and in certain circumstances, decisions on planning enforcement cases result in the Council facing an application for costs arising from a planning appeal. Officers will aim to alert Members where this may be likely and provide appropriate advice in such circumstances.

Tim Mills
Head of Economy, Planning and Strategic Housing

BACKGROUND PAPERS

Rushmoor Local Plan (2019)

Rushmoor Local Enforcement Plan (2016)

National Planning Policy Framework (NPPF)

Item 1

Delegated Decisions on Enforcement Action

The Following Decision is reported for INFORMATION purposes only. It relates to a decision to take no further action that has already been made by the Head of Economy, Planning and Strategic Housing in accordance with the Council's adopted Scheme of Delegation.

If Members wish to have more details about the decision on any of the cases below, please contact John W Thorne (01252 398791) in advance of the Committee meeting.

Address	12 Twelve Acre Crescent, Farnborough
Ward	Wellington
Decision	No Further Action
Decision Date	10/12/2021
Breach	Unauthorised pruning of Oak Tree subject to TPO458 consisting of removal of branches.
Reasons	Whilst the works have caused visual harm and damage to a TPO tree of amenity value, they are understood to have been carried out on behalf of the householder by, and on the basis of advice from, a 'Tree Surgeon'. Repeated attempts to contact or obtain a response from this operator using the details available have not been successful.
Alternatives	Prosecution of the householder, who is ultimately responsible for the work carried out on his behalf, would be an option. If this were successful it could lead to a fine. However, it would not bring about restoration of the damaged tree, nor would it affect the party who appears to have solicited and carried out the works. The advice on the Council's website regarding private individuals contemplating works to trees or employing 'tree surgeons' has been updated and the householder's attention has been brought to it.
Case Officer	Ian May
Associated Documents	Enforcement Reference 21/00063/TREE

Address	16 Union Street, Aldershot
Ward	Wellington

Decision	Instruct the Corporate Manager, Legal Services to issue a Stop Notice in the event of further or resumed unauthorised work on the site
Decision Date	14/12/2021
Breach	Unauthorised Demolition or Partial Demolition Of Building
Reasons	<p>The owner of the site asserted that the work being undertaken is in order to continue with development authorised by planning permission 07/00541/FUL, granted on 6 November 2007 for “Demolition of existing building and erection of one shop on ground floor and 6 one-bedroom flats above” and which he claimed was implemented on before the planning permission expired on 6 November 2010. However, on 25 October 2018, the Council responded to a “Request for confirmation that condition 1 of planning permission 07/00541/FUL has been complied with and the development was implemented within three years of the date of approval”, (18/00505/COND refers), stating that it Refused to Confirm that condition 1 had been complied for the following reason:</p> <p>“The development has not been implemented or substantially completed and no evidence has been provided that any works constituting implementation of this planning permission (07/00541/FUL) were carried out before it expired on 6th November 2010.”</p> <p>The work of demolition does not therefore benefit from planning permission 07/00541/FUL, or any other planning permission, and moreover, if the development were continued in accordance with the expired scheme, it would not comply with Policies IN2-Transport, DE2-Residential Internal Space Standards, DE3-Residential Amenity Space Standards, DE6-Open Space, Sport and Recreation, DE7-Playingfields and Ancillary Facilities and NE1- Thames Basin Heaths Special Protection Area of the Rushmoor Local Plan 2014-2032.</p> <p>The site’s owner has given a written undertaking that he will not undertake any further works on-site until planning permission is obtained. As a precautionary measure and to avoid further visual and environmental harm arising from work on the site in the absence of a valid planning permission it is considered the Council should be in a position to serve a Stop Notice in the event that works are recommenced.</p>
Alternatives	Take no further action, provided that works are implemented in accordance with the plans and conditions of the previous planning permission 07/00541/FUL. This is unacceptable in that it would sanction development without planning permission which is not compliant with current national planning policy or the provisions of the development plan. In particular it would provide no mitigation for the impact of the development upon the Thames Basin Heaths Special Protection Area.

Case Officer Chris Jones

Associated Documents Enforcement Reference 21/00199/GENWRK

2. Recommendation

2.1 It is recommended that the report be **NOTED**.

Tim Mills
Head of Economy, Planning and Strategic Housing