

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)

Item1

Delegated decisions by the Corporate Planning Manager to take no further action in respect of alleged breaches of planning control.

The following decisions are reported for INFORMATION purposes only. They relate to enforcement cases that are in breach of planning but no application has been forthcoming and where a decision to take no further action has been taken in accordance with the Council's Scheme of Delegation.

Address	88/90 Queensmead Farnborough
Ward	Empress
Decision	No further action
Decision Date	20 th July 2022
Reasons	<p>The Council received a complaint from a residential property which is located above a new shop that was opening in Queensmead. The complaint was about noise coming from compressor units on the roof of the shop which was located close to the residential flats and keeping them awake all night. The units require planning permission as the premises are commercial.</p> <p>After discussions with the owner of the shop and the owner subsequently relocating the units, they are now at ground floor and no additional complaints have been received. The owner of the shop submitted a retrospective planning application for the units but it was invalid upon receipt and has never been validated.</p>
Alternatives	An enforcement notice could be issued but as the development is now considered acceptable due to the location of the units, it would not be expedient for the council to take further action
Case Officer	Tara Cowell
Associated Documents	Enforcement Reference 21/00013/OTHER



Item 2

Delegated decisions by the Corporate Planning Manager to take no further action in respect of alleged breaches of planning control.

The following decisions are reported for INFORMATION purposes only. They relate to enforcement cases that are in breach of planning but no application has been forthcoming and where a decision to take no further action has been taken in accordance with the Council's Scheme of Delegation.

Address	52 Sidlaws Road Farnborough
Ward	Fernhill
Decision	No further action
Decision Date	20 th July 2022
Reasons	<p>The Council received a complaint stating a porch had been erected at No 52 Sidlaws Road encroaching onto the adjacent property.</p> <p>A site visit was carried out and it is apparent that a pitched roof had been erected over the existing flat roofed garage to the front of the property. The roof requires planning permission as it projects forward of the principal elevation of the property.</p> <p>The owner was contacted and he wasn't aware planning permission was required as others in the same area had done the same recently. The two other properties in question had obtained planning permission before carrying out the works. The owner said that he would submit a retrospective planning application, but one has not been forthcoming.</p>
Alternatives	<p>The matter of encroachment is a civil matter between the two properties and the complainant has been advised of this.</p> <p>An enforcement notice could be issued but as the development is considered acceptable, it would not be expedient for the council to take further action</p>
Case Officer	Tara Cowell
Associated Documents	Enforcement Reference 22/00030/RESWRK

