

## **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

Item 2 Updates 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.

#### **6. Recommendation**

That the report be **NOTED**

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.**

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Address	52 Sidlaws Road Farnborough
Ward	Fernhill
Decision	No further action
Decision Date	20 <sup>th</sup> July 2022
Reasons	<p>This item is returned for noting following the report to Committee on 20<sup>th</sup> July 2022 as that report was accompanied by an incorrect photograph. The Correct photograph is now appended.</p> <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 and the front porch to the front of the property. The roof is development requiring planning permission as it projects forward of the principal elevation of the property.</p> <p>The owner was contacted and stated he wasn't aware planning permission was required as others in the area had done the same recently. The two other properties he referred to had however 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> <p>Encroachment is a civil matter between the two properties and the complainant has been advised of this.</p>
Alternatives	<p>An enforcement notice could be issued but as the development is considered acceptable, it is not considered expedient for the council to take further action</p>
Case Officer	Tara Cowell
Associated Documents	Enforcement Reference 22/00030/RESWRK



## Item 2

### Updates on enforcement matters.

- A. An enforcement notice requiring the removal of the unauthorised storage of tyres within the rear parking area was issued in respect of **183 Ash Road, Aldershot** on 27 July 2022, with a compliance period of 3 months.

Enforcement Reference 21/00068/GENWRK

- B. An enforcement notice requiring cessation of the unauthorised material change of use of the domestic outbuilding to use for commercial purposes and the removal of a fence sub-dividing the residential garden was issued in respect of **185 Ash Road, Aldershot** on 15 July 2022, with a compliance period of 3 months.

Enforcement Reference 21/00157/COUGEN

- C. Planning Contravention Notices were served on the two separate owners of **146 Tongham Road, Aldershot** on 4 July 2022 in connection with the Council's investigation of an alleged unauthorised change of use of the property to three flats being occupied as serviced rental accommodation, requiring a written response to the Council on or before 25 July 2022. Formal responses to the Notices were received from both owners on 25 July 2022 confirming that the unauthorised change of use of the property had ceased. Subsequent inspection of the property and contact with the complainant has confirmed that the property is now unoccupied. The situation with the property is being monitored.

Enforcement Reference 22/00054/COUGEN