

## **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	15 Bruneval Drive Wellesley Aldershot
Ward	Wellington
Decision	No further action
Decision Date	14 <sup>th</sup> September 2022
Reasons	<p>A one metre high black picket fence has been erected to the front of the property which previously had an open plan front garden.</p> <p>The fence requires planning permission due to permitted development rights being removed by an Article 4 Direction which was placed on the Wellesley development on the 31st of January 2021 in relation to 'the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure which would be within the curtilage of a dwelling house and would front a relevant location'.</p> <p>The owner has been made aware that the fence requires planning permission, but an application has not been forthcoming.</p>
Alternatives	An enforcement notice could be issued but as the development is considered acceptable and permission would have been granted had an application been submitted, it is not considered expedient for the council to take further action.
Case Officer	Tara Hasty
Associated Documents	Enforcement Reference 22/00049/BOUND



Address	15 Gillian Avenue, Aldershot
Ward	Aldershot Park
Decision	No further action
Decision Date	14 <sup>th</sup> September 2022
Reasons	<p>A complaint was received regarding an outbuilding that had been erected at the above address which allegedly is over 2.5 metres in height within two metres of a boundary. The complaint was in respect of the height, length and visual impact of the outbuilding.</p> <p>Upon investigation, the outbuilding has been erected on a concrete base and the combined height measures 2.7 metres from natural ground level to the roof and is located within 2 metres of a boundary. The outbuilding does therefore require planning permission.</p> <p>A site visit was carried out to view the outbuilding from the neighbouring garden. Due to the difference in ground level and the proximity to the shared boundary, it is visible from neighbouring property. However, if the height were to be lowered to 2.5 metres and thereby fall within permitted development tolerances, the visual impact due to location and the low shared boundary wall would be no less harmful.</p> <p>The owner has been made aware that planning permission is required but an application has not been forthcoming.</p>
Alternate	An enforcement notice could be issued, but as the development is considered acceptable and the grant of planning permission would be likely if an application were submitted, it is not considered expedient for the Council to take further action.
Case Officer	Tara Hasty
Associated Documents	Enforcement Reference 22/00092/GENWRK





Address Unit 1 Blackwater Park, Aldershot

Ward North Town

Decision No further action

Decision Date 14th September 2022

Reasons The premises was formerly an industrial building occupied by Linde Cryogenics but following the grant of planning permission 21/00817/FULPP in January 2022, works were commenced on the conversion of the building and yard to a builder's merchants involving storage, distribution, trade counter, offices and ancillary retail. The approved plans showed that the existing concrete surface of the yard would be replaced with a new concrete surface, but the block paved car park at the front of the building would be retained, with the exception of a new pedestrian access path to Holder Road.

In April, a complaint was received that a section of block paving had been replaced with concrete, which was not permitted development as it made no provision for surface water drainage and was not shown on the approved plans.

Upon investigation, it was noted that the section of block paving between the position of the yard gates and the vehicular access point to and from Holder Road had been replaced with concrete to match the yard. The area is approximately 32m in length and 10m at its widest point. This work is considered to be materially different from what is shown on the approved plans. Moreover, while new and replacement hardstandings can be provided without the need for planning permission under Part 7 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended), this is subject to a condition that, except where there is a risk of ground water contamination, permeable or porous materials are used. A representative of the Environment Agency has confirmed that the use of permeable materials would not result in a risk of ground water contamination in this location and therefore, because impermeable concrete has been used, it is considered that the replacement surface required planning permission.

The site's owners were contacted via their planning agent to advise of the need for planning permission. The agent responded to say that during construction work, the blockwork between the yard and the access point had been damaged by heavy lorries and therefore that the tenant had decided to replace it with a new, more durable surface. Had the blockwork been repaired, it would be vulnerable to repeated similar damage when the yard became fully operational. The agent indicated that the tenant's planning consultant would arrange for a planning application to be submitted to regularise matters, but an application has not been forthcoming.

Had a planning application been submitted, the main determining issues would have been impact upon visual amenity and the provision to be made for surface water runoff.

It is considered that the replacement of blockwork paving with a concrete surface to match that in the yard would not be inappropriate in this Strategic Employment Site and that the works have had little impact upon visual amenity and therefore there is no conflict with Policy DE1 of the Rushmoor Local Plan.

In terms of the provision of surface water drainage, it is noted that the Council granted permission for the like-for-like resurfacing of the yard with concrete on the basis that it would not result in an increase in the area of impermeable surfacing within the site and because provision was already made for rainwater runoff within the site. The blockwork that was removed was not a permeable material as the complainant has suggested – the building predates the flooding events that resulted in the change of national and local planning policy to require use of such materials in most situations. Additionally, an inspection reveals that there are no gaps between the edges of the pavers to allow water to drain through and, indeed, the surfaces slope towards central gulleys and drains, which would be unnecessary had a permeable paving system been installed. Accordingly, the provision of the concrete surface has not increased the area of impermeable surfaces within the site or disrupted the existing provisions for surface water drainage, which would prevent any discharge onto the highway. Consequently, had a planning application been submitted, it is considered that it would have been judged acceptable when assessed against Policy NE8 of the Rushmoor Local Plan.

Alternatee

An enforcement notice could be issued but as the development is considered acceptable and permission would have been granted had an application been submitted, it is not considered expedient for the council to take further action.

Case Officer

Chris Jones

Associated Documents

Enforcement Reference 22/00040/GENWRK





## Item 2

### Updates on enforcement matters.

- A. It has been determined by the Corporate Planning Manager under the scheme of delegation that Enforcement and Breach of Condition Notices requiring compliance with a number of conditions of planning permission 18/00481/FULPP be issued in respect of the **Old Warehouse, Star Yard to the rear of 182-192 Victoria Road, Aldershot**. Of particular note, the breach of conditions relate to failure to provide on-site parking as approved by the planning permission. Instructions have been issued to the Corporate Manager, Legal to draft and serve the notices in this respect.

Enforcement Reference 21/00194/CONDS