

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 to take 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 to take Enforcement Action

The following Decision is reported for **INFORMATION** purposes only. It relates to a decision to issue an enforcement notice 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 the case below, please contact John W Thorne (01252 398791) in advance of the Committee meeting.

Address	The White Lion Public House, 20 Lower Farnham Road Aldershot
Ward	Aldershot Park
Decision	Issue Enforcement Notice
Decision date	15/10/2022
Reasons	<p>Complaints were received that the flat was being advertised as available for rent independently from the Public House in May 2022, and this was evidenced on a site visit in June 2022. Three letters were sent to the owner but there was no response. A Planning Contravention Notice (PCN) was issued on 4 August which was returned completed on 8 September. This confirmed that the first-floor flat is being occupied by tenants under a six-month shorthold tenancy agreement with the owner as the landlord. The PCN confirmed that there has been a breach of planning control as the first-floor flat is ancillary to the Public House, and not an independent dwelling (Use Class C3).</p> <p>This breach is considered to give rise to planning harm because under the Rushmoor Local Plan, any development resulting in the loss of a Public House must first demonstrate that there is no longer term need and details of how this can be demonstrated are given in the Local Plan and the adopted Development Affecting Public Houses SPD.</p> <p>Planning Application 22/00159/FULPP for a rear first floor extension and change of use of the flat into an independent dwelling was refused in April 2022 for failing to demonstrate that there was no longer term need for the accommodation. Instructions have been issued to the Corporate Manager, Legal to draft and serve the notices in this respect.</p> <p>Under section 171 of the Town and Country Planning Act, the absence of enforcement action could result in the use becoming</p>

lawful if the breach was continuous for a period of more than 4 years.

Case Officer Katie Ingram

Associated Documents Enforcement Reference 22/00069/COUGEN