

## 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  
Executive Head of Property & Growth

#### **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 Executive Head of Property & Growth 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** 21/00144/RESWRK 2 Boxalls Grove Aldershot GU11 3QS

**Ward** Manor Park

**Decision** Enforcement Notice and Untidy Site Notice

**Decision date** 06/04/2023

A complaint was made by a member of the public about a large outbuilding that had been built to the front of the above property. Upon inspection, it was noted that this outbuilding required planning permission as it is situated forward the principal elevation of the property.

Three letters were sent to the owners with no response and a Planning Contravention Notice (PCN) was served on the 18<sup>th</sup> August 2023. The owner responded by a telephone call to say it had been there for more than 4 years and he would tidy up the front of the property. He was asked to provide evidence on the PCN and return it to the planning department. This was not forthcoming.

The councils Legal Team took the case to court for the non-return of the PCN on the 21<sup>st</sup> March 2023 and the owner was fined for failure to return the PCN

It has not been possible to confirm the owners' claim that the outbuilding had been erected for more than 4 years from the Council's records and, as such, had acquired immunity from enforcement action. However, the Council investigation team spoke to various neighbours, whom have provided written statements to the effect that the outbuilding has not existed at the site for more than four years in its current form.

The breach is considered to give rise to planning harm because, under the Rushmoor Local Plan and Supplementary Planning Document 'Home Improvements and Extensions February 2020,

new development should include high-quality design that respects the character and appearance of the local area, use materials sympathetic to local character and should be of a scale and massing that is clearly subservient to the host property and should not should not impact upon the amenity of any neighbouring property. In this respect, it is not considered that the outbuilding has an acceptable visual appearance and materially detracts from the character and appearance of the street-scene. As such, it is considered that planning permission would not have been granted had an application been submitted for the outbuilding. In addition, the property frontage is being used for the storage of various materials giving the property an untidy appearance also detracting further from the visual character and appearance of the area.

Instructions have been issued to the Corporate Manager, Legal to draft and serve both Enforcement and Untidy Site Notices in this respect.

Under Section 171 of the Town and Country Planning Act, the absence of enforcement action could result in the use becoming lawful if the breach was continuous for a period of more than 4 years.

**Case Officer** Tara Hasty

**Associated Documents** Enforcement Reference 21/00144/RESWRK

