

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 Decisions for 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
Executive Head of Property & Growth

BACKGROUND PAPERS
Rushmoor Local Plan (2019)
Rushmoor Local Enforcement Plan (2016)
National Planning Policy Framework (NPPF)

Item1

Site Location: 26 Avondale Road, Farnborough

Alleged breach: Erection of boundary wall over 1m in height adjacent to a highway.

Recommendation: Issue Enforcement Notice.

Commentary

The property is a detached bungalow situated prominently within the street scene in red multi brick with a tiled roof.

The breach of planning control comprises the erection of a 1m high wall with 2m high pillars, clad in grey and white tiling across the frontages to Avondale Road and Southmead Road.

Due to the height of the wall fronting a highway planning permission is required.

The materials used in the wall in conjunction with its extent and height results in an incongruous feature within the street scene, resulting in adverse harm to its character and appearance.

Following the unauthorised construction, planning permission was sought to retain the lower wall section with traditional brick finish to the remaining pillars above with railings and gates between. Permission was refused under application 23/00478/FULPP on 27th July 2023.

In the absence of an acceptable scheme and given the visual harm caused by the development, it is recommended that the Council should serve a planning enforcement notice to regularise the breach.

Full recommendation:

It is recommended that an instruction is issued to the Corporate Manager, Legal to:

- A. Issue an **Enforcement Notice** to require the reduction of the wall to 1m, with a period of three months for compliance;

