

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 Property and Growth. 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 Decision 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

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 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.

Address	1 Normandy Drive, Wellesley, Aldershot
Ward	Wellington
Alleged Breach	Installation of a gate and erection of a bin store
Decision	No Further Action
Decision Date	18 th September 2023

The property is a two storey house with rooms in roof located on the corner of Normandy Drive and Montgomery Avenue. The garden is located to the side of the house and is surrounded by a brick wall approximately 1.6 metres high. To the front of the property are black railings approximately 1.2 metres high which have been erected by developers throughout the Wellesley development.

A complaint to the Council alleged a new entrance had been created with a gate leading into the garden area, and a timber bin store erected adjacent to the front elevation of the property.

The gate requires planning permission due to an Article 4 Direction placed on the Wellesley Development in January 2021. The bin store requires planning permission as it is located forward of the principal elevation of the property.

The Housebuilders, David Wilson Homes, installed the gate prior to the current owners buying the property. The owners have been told by the Housebuilders that it had planning permission. There is no such planning permission. The bin store had been erected by the current owners.

Neighbours at No. 2 Normandy drive have recently had a retrospective application approved, 23/00395/FULPP dated 6th July 2023 for works which included an entrance and gate. Taking this into consideration along with materials and the position of the gate at No. 1 it is considered acceptable within the street scene.

The bin store, although not built with materials sympathetic to the front elevation of the property or the development is not considered to adversely affect the street scene to the extent that a refusal of planning permission would be justified. Therefore, it is considered acceptable within the street scene.

The new owner of the property was advised accordingly but no planning application has been forthcoming.

Alternatives

An enforcement notice could be issued but as the development is considered acceptable and the grant of planning permission would be recommended should an application be submitted, it is not considered expedient for the council to take any further action on this matter.

Case Officer

Tara Hasty

Associated Documents

Enforcement Reference 23/00395/FULPP

