

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 Executive Head of Property & 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 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

Executive Head of Property & Growth

BACKGROUND PAPERS

Rushmoor Local Plan (2019)

Rushmoor Local Enforcement Plan (2016)

National Planning Policy Framework (NPPF)

Item 1 Updates on Enforcement Action

The following is reported for INFORMATION purposes only. It relates to decisions that have already been made by the Corporate Planning Manager in accordance with the Council's adopted Scheme of Delegation.

If Members wish to have more details about the case below, please contact Katie Herrington (01252 398791) in advance of the Committee meeting.

Site Location: 116 Chapel Lane, Farnborough (24/00107/COUGEN)

Alleged breach: Without planning permission, use of land and buildings for a car wash.

Commentary The site is a former petrol filling station located on Chapel Lane adjacent to the junction with North Farm Road, where there is a mini roundabout. The premises has an ingress and egress on either side of the mini-roundabout and the canopy and sales building have been retained. The premises have been used for vehicle sales and retail. There is a separate vehicle workshop adjoining the site to the north – providing MOT testing, and tyre and exhaust fitting, etc. To the south is All Saints Church, while to the west are houses fronting Fernhill Road.

In January 2020, a temporary planning permission was granted for "*Change of use of part of premises from motor vehicle sales and retail (A1) to car wash (Sui-Generis)*" – 19/00799/FULPP refers. Permission was granted on a temporary basis expiring on 3rd January 2021 because, while equipment had been installed to operate the use, the use itself had not been commenced and while there were potential concerns about impact on residential amenity through noise from jet washing, etc., the Council did not consider that a refusal of planning permission was warranted at that stage. Instead, a temporary planning permission was considered appropriate as it would allow the Council to then monitor the actual impact of the business on residential amenity and this would then inform any decision in respect of an application for continued use.

Notwithstanding the temporary use condition, the use of the site as a car wash continued, and earlier this year, a planning application 24/00202/FULPP was submitted for "*Continued use of land and building for car wash and valeting.*" A number of objections were received from local residents, primarily regarding noise from the operation of the jet-washes. Following advice from

Environmental Health, who have undertaken noise monitoring at the closest residential dwelling, planning permission was refused under delegated powers for the following reason:

- 1. The proposal to continue a hand car wash utilising jet washes would result in a significant and adverse impact upon residential amenity through noise, which is substantially greater than noise arising from the authorised use of the premises for vehicle sales and retail and for which there appears to be no practical means of mitigation. The use is considered to be incompatible with the adjoining residential properties and the proposal is contrary to Policies DE1 and DE10 of the Rushmoor Local Plan and the National Planning Policy Framework.*

In parallel with this, it was resolved to serve an **Enforcement Notice** to require the unauthorised car washing and valeting business to cease, and all related equipment and structures to be removed from the land, with a period of Two Months being given for compliance.