

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.

Address Units 1-3, 14 Camp Road, Farnborough, GU14 6EW

Reference 23/00065/CARREP

Ward St Mark's

Decision Issue Enforcement Notice

The Council have been receiving complaints regarding the car repair businesses on the site since 2022, notably regarding noise, odour/ fume smells, working late in the evening and its untidy appearance. The units are operating as MOT and vehicle repair garages without the benefit of planning permission. December 2023 to mid-2024 planning officers were trying to engage with the freeholders and business owners to resolve the breaches.

The breaches are the unauthorised use; erection of canopy structures outside the units; permanent stationing of a shipping container converted to offices, and erection of fencing without permission.

The proposed use as a vehicle repair premises and MOT testing centre at this intensity would result in harmful levels of noise and adversely affect the amenity of nearby residents, would result in parking requirements that cannot be met on the site to the prejudice of highway safety surrounding the site, and the awnings would result in an untidy appearance and visual clutter on the site that has an adverse impact on the visual amenities of the area. They also intensify the unauthorised use.

A Planning application (24/00606/FULPP) was submitted for the use of units 1-3 as a vehicle repair premises and MOT Testing Centre and retention of the canopies and boundary fencing (with the paint oven and HGV/shipping container to be removed). This was refused in December 2024, as the imposition of conditions were not enough to resolve the harms resulting.

In October 2024, Council sent a final warning letter to all parties that an Enforcement Notice would be served if the identified breaches were not resolved. At the time of publication of this report the breaches have not been resolved, an Enforcement notice is to be served.