

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 where local planning authorities are considering whether enforcement action is expedient, they should take account of their local enforcement plan, the impact of the breach of planning control, and the extent to which the breach would otherwise be acceptable. 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

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 Planning Service Manager in accordance with the Council's adopted Scheme of Delegation.

If Members wish to have more details about the case below, please contact Jake Hamilton (01252 398161) in advance of the Committee meeting.

Address	28 The Topiary Farnborough
Reference	26/00022/BOUND
Ward	Cove and Southwood
Decision	No further action

A complaint was received alleging that fencing had been erected to the front of the property, requiring planning permission and resulting in highway safety issues due to hindering the sightlines on the junction of The Topiary and Southern Way.

Following investigation, it was established that a timber fence had been erected adjacent to the highway at a height exceeding 1 metre. As such, the development requires planning permission and constitutes a breach of planning control.

The property owners were contacted in writing regarding the matter; however, no response has been received.

In assessing whether formal enforcement action would be expedient, regard has been had to the potential impact on highway safety. The pavement surrounding the fencing provides sufficient visibility for drivers approaching the junction to see vehicles approaching from the adjoining road therefore the fence is acceptable in terms of highway safety.

The fence is constructed of timber with closely spaced horizontal slats with vertical posts and it is not fully solid in appearance. Having considered its height, design, materials, it is concluded that the development does not result in material harm to the character and appearance of the street scene. Consequently, it is considered likely that planning permission would be granted were a retrospective application to be submitted.

Accordingly, whilst a breach of planning control has occurred, the breach is not considered to result in sufficient planning harm to warrant formal enforcement action. It is therefore not expedient to pursue enforcement action in this instance



Figure 1 – view of fence at 28 The Topiary

Address 128 Ship Lane Farnborough
Reference 26/00061/OUTBDG
Ward Empress
Decision No further action

A complaint was received that a shed had been erected in the rear garden of the above property.

Upon investigation, the shed measures 2.4 metres square and 2.16 metres high which would normally constitute permitted development by virtue of Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, the shed includes a veranda, which is not permitted under Class E and accordingly planning permission is required.

The shed is located 30cm away from the side elevation of a neighbouring boundary. The owner of the shed was invited to submit a planning application to regularise the breach of planning control, but an application has not been forthcoming.

The shed and veranda are constructed of timber, with the windows and doors facing into the owner's garden. The shed itself is of modest dimensions and would have constituted permitted development without the veranda. The veranda itself is not considered to materially alter the development's impact on neighbouring amenity. It is therefore concluded that the development does not result in material harm to neighbouring occupiers.

Consequently, it is considered likely that planning permission would be granted were a retrospective application to be submitted

Accordingly, whilst a breach of planning control has occurred, the breach is not considered to result in sufficient planning harm to warrant formal enforcement action. It is therefore not expedient to pursue enforcement action in this instance.



Figure 2 – view of outbuilding at 128 Ship Lane