

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 Planning. 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 normally, therefore, is to report to Committee matters that are breaches of planning control but where it is recommended that it is not expedient to take enforcement 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 about taking enforcement action if it is considered expedient to do so. The 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 Briarlees Court, Morris Road, Farnborough

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.

Keith Holland
Head of Planning

BACKGROUND PAPERS

Rushmoor Local Plan Review (1996-2011)[saved policies]

Rushmoor Core Strategy (October 2011)

Rushmoor Local Enforcement Plan (2016)

National Planning Policy Framework (NPPF)

Item1

Site location Briarleas Court, Morris Road, Farnborough

Alleged breach Erection of railings exceeding 1m in height adjacent to a highway

Recommendation No further action

Description

Briarleas court is located off Morris road in Farnborough. The entrance to the flats is a private two-way road between two residential properties.

Alleged breach

Railings over 1 metre in height adjacent to a highway have been erected and therefore require planning permission.

Investigation

Originally both the railings and a gate were erected to block off half of the entrance drive and the pedestrian path. This created more allocated parking bays for residents of the development and served to deter non-residents from entering the private road and parking.

Commentary

The reduction in width of the access road raised concerns regarding emergency vehicles and the council's refuse trucks. The fire service attended with a fire truck and concluded that although they could get in after several attempts this was not acceptable in an emergency. Refuse trucks could not gain clear access to the bin storage area. The gate and post were removed from the road. The railings to the side adjacent to no.42 Morris Road were left in place a retrospective planning application was requested to regularise the arrangement. To date, no application has been received.

A site visit attended by the Briarleas Court Residents Association Secretary, the Council's Transportation Strategy Officer and a representative from Hampshire County Council was carried out to assess the impact of the railings. It was noted that the post had obstructed a pedestrian dropped kerb on Morris Road. The post had been erected on private land but when the kerb was dropped by Hampshire County Council, they encroached onto the private land. HCC have confirmed that they will widen the dropped kerb at their expense as the residents association has no funding.

With the dropped kerb reinstated, the existing railings are no longer a highway concern and if a planning application were to be submitted, the recommendation would be to grant planning permission.

Full recommendation

It is recommended that no further action be taken.