

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 1 107 Fernhill 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)

Item No. 1

Site location 107 Fernhill Road Farnborough

Alleged breach Fence over one metre in height erected to the front boundary

Recommendation No further action

Description

The property is a double fronted bungalow, located on the east side of Fernhill Road with the rear garden backing on to Hanover Gardens. The property has multi buff brickwork and white uvpc doors and frames. There are two bay windows on the front elevation and a barn hipped roof. The front garden is used for parking and there is a drive to the side of the bungalow with a garage in the rear garden.

Alleged breach

A complaint was received that a new boundary wall was built to the front of the property obstructing the sightlines of drivers leaving a neighbouring property. The boundary is on a frontage with the highway and exceeds 1m in height. Although it replaces fencing of a similar height it does not benefit from permitted development rights.

Investigation

The previous boundary fence consisted of close boarded panels mounted on top of a low brick wall. The new boundary fence appears similar in height and has been reduced in overall width by approximately 30cm at each end, this results in a corresponding increase in width of the vehicular entrances of both 107 and 109.

Commentary

The new boundary comprises railway sleepers to the front and concrete panels to the side on the boundary with No. 109, with fence panels above to a height of approximately 1.8 metres.

The owners of the property were contacted and asked to submit a planning application for the retention of the boundary treatment but after protracted correspondence and a meeting on site with the owner, they have not done so.

Hampshire County Council highways were notified and their comments sought in respect of highway safety. They responded that it is the homeowners responsibility to ensure that they can access the public highway safely. Should an incident occur upon which a reduced sight line is considered to be a contributory factor the County Council as the highway authority would not accept liability and would advise any third party claimant to be re-directed to the home owner. They further confirmed that the

County Council would not object to any request for retrospective planning permission.

Under the circumstances it is not considered expedient to pursue further action.

Full recommendation

It is recommended that no further action be taken.