

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 Economy, Planning and Strategic Housing. 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, 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 1 224 Pinewood Park 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.

Tim Mills
Head of Economy, Planning and Strategic Housing

BACKGROUND PAPERS

Rushmoor Local Plan (Adopted 2019)
Rushmoor Local Enforcement Plan (2016)
National Planning Policy Framework (NPPF)

Item No. 1

Site location 224 Pinewood Park, Farnborough, Hampshire, GU14 9LG

Alleged breach Loss of amenity land due to camper van parked on land

Recommendation No further action taken

1. Description

1.1 No. 224 Pinewood Park is a mid-terrace dwelling. Parking is in garages and parking areas to the south of the property as there is no direct vehicular entrance to the terraced row. The site relates to a triangular patch of grassed amenity land (102sqm) in front of nos. 222-228 (even numbers) Pinewood Park. There is a footpath between the land and the terraced row which is owned by Hampshire County Highways but the site the subject of this report is not in Highways or Council ownership. A Land Registry search shows that it is a left-over piece of common amenity land owned by the developers when the estate was developed. According to the owner of the dwelling the site is maintained by the Council.

2. Alleged breach

2.2 A complaint was received that a motorhome is parked permanently on the patch of land with a power cable from the dwelling into the van over the footpath.

3. Investigation

3.1 When the officer visited the site on 12 February the van was parked with the cable going into the van and there was no apparent evidence of permanent occupation. When the officer revisited the site on 21 March the van was not there.

3.2 The owner responded to the complaint on the phone on 22 February and in writing on 26 February as follows:

- The van is fully taxed and MOTed and is used for family holidays, never as a casual or permanent residence.
- In the winter the cable is run from the meter cupboard to the van to prevent winter damp and is in a rubber sleeve on the footpath
- The van is parked in this location because it is safer and to alleviate existing parking shortages in the area
- This is the fourth motorhome they have owned and parked in this area for over ten years.

3.3 Hampshire Highways have been informed of the cable on the footpath and state that they would look to remove the cables due to the hazard to highway users. It would fall under the nuisance category.

4. Commentary

4.1 The issue is the loss of amenity land for private residential use without planning permission. Under section 171B of the Town and Country Planning Act (1990) in the case

of a breach of planning control of this nature no enforcement action may be taken after a period of ten years beginning with the date of the breach.

- 4.2 The Council's aerial mapping system shows a motorhome parked on the site in 2017 and 2013 and this corroborates the owners' assertion that they have been parking a motorhome on this spot for more than ten years.
- 4.3 It is therefore not considered expedient to proceed with enforcement action in respect of the use of the land for parking.

5. Full recommendation

It is recommended that no further action be taken.

