

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 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 **148 Marrowbrook Road, Farnborough**

Item 2 **Briarwood, Sorrel Close, 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 (2019)

Rushmoor Local Enforcement Plan (2016)

National Planning Policy Framework (NPPF)

Item 1

Site location **148 Marrowbrook Road, Farnborough**

Alleged breach **Retention of a playhouse**

Recommendation **No Further Action**

A complaint was received regarding a playhouse being erected in the rear garden of the above property. The complaint was not about the structure itself but the extent of the overlooking into neighbouring gardens.

Upon investigation, the playhouse requires planning permission as there is a platform of over 30mm high above ground level. At the time of the site visit, the owners were informed that the playhouse was not acceptable due to the adverse overlooking issues that it caused.

Since the initial visit, the owners have worked with the Council and have enclosed the areas where overlooking issues occurred. This has been achieved by adding a roof, enclosing the sides of the platform and installing obscure glazing to the rear, facing into the neighbouring property.





As the overlooking issues have been rectified, the owners were asked to submit a formal planning application to rectify the breach of planning control. At the time of writing this report, no application has been forthcoming. Nevertheless, it is considered that, were an application to be submitted seeking to regularise these works, the application would be granted. On this basis it is not considered that it would be expedient to take formal enforcement action in this case.

Full recommendation:

NO FURTHER ACTION

Associated Documents Enforcement Reference 19/00083/OUTBDG

Item 2

Site location **'Briarwood', Sorrel Close, Farnborough**

Alleged breach **Untidy Site**

Recommendation **s215 Notice**

This property is located adjoining public open spaces located between Broadmead and Herbs End. The sole vehicular access is from Sorrel Close. The building was last used as an institutional use by the local health authority, but was sold into private ownership some years ago and the property has been vacant and unused since then. The building is shuttered-up due to persistent problems with vandalism and unauthorised access. There are numerous ways into the site through broken-down fences; and also directly from a public footpath to the east. The roof of the building is largely missing and open to the weather due to a fire last autumn.

The site and the building within are readily publicly visible all around from adjoining public amenity spaces and Herbs End and Sorrel Close residential roads. It is considered that the amenity of the surrounding area is adversely affected by the continued presence of the building in its current state. Furthermore, that the only tenable option is that the building and detached garage be demolished and the demolition materials removed from the land.

The property owner is unwilling to demolish the building and little appears to be possible to prevent continued unauthorised access from happening. Indeed, there are signs that the shutter on the main entrance door is still being bent back to gain access to the building. Although planning proposals are understood to be in preparation on behalf of the owner these have not been submitted to the Council to date. Even if such proposals were to be received now and found to be acceptable in planning terms, it would be many months before a scheme could be implemented.

The owner is aware of the Council's impending action in this respect in writing. Due to the continued poor condition of the property and the adverse impacts that arise the Council's Corporate Legal Services Manager has already been instructed under the Council's scheme of delegation to officers to prepare and serve an 'Untidy Site Notice' under s215 of the Town & Country Planning Act 1990. This is to require the demolition of the buildings at the site and the removal of all of the demolition materials from the site within an appropriate time period to be considered in consultation from the Council's Building Control Manager.

Full recommendation:

The content of this report be **NOTED**.

Associated Documents Enforcement Reference 20/00028/UNTIDY