

## **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 Delegated Decision on Enforcement Action

Item 2 Enforcement Notice at 162 Fleet Road, Farnborough - Update

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

### Delegated Decisions to take Enforcement Action

The Following Decision is reported for INFORMATION purposes only. It relates to a decision to take no further action that has already been made by the Head of Economy, Planning and Strategic Housing in accordance with the Council's adopted Scheme of Delegation.

If Members wish to have more details about the decision on any of the cases below, please contact John W Thorne (01252 398791) in advance of the Committee meeting.

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Address	<b>24-26 Church Lane East, Aldershot</b>
Ward	Manor Park
Decision	<b>Breach of Condition Notice</b>
Decision Date	12/04/2021
Breach	Non-compliance with Condition No.2 (x) of planning permission 17/00575/REVPP dated 25 August 2021 through failure to undertake and complete the construction of improvements to the vehicular access into the approved development to create a bell-mouth at the junction with Church Lane East.
Reasons	Failure to undertake the approved works before the new dwelling houses approved by the planning permission were occupied gives rise to conditions likely to be to the detriment of the safety and convenience of highway users.
Alternatives	An Enforcement Notice could be issued to require compliance with the condition, but this would extend the timescales for compliance, particularly if the developer were to exercise their right of appeal. A Breach of Condition Notice would be a more expeditious means of securing compliance. Taking no action would not address the highway safety and convenience issues.
Case Officer	David Stevens
Associated Documents	Enforcement Reference 21/00051/CONDS.

## Item 2 - Enforcement Action at 162 Fleet Road

- 1.1 Following dismissed appeals against an enforcement notice issued on the 6<sup>th</sup> July 2020 requiring removal of a partially open sided outbuilding and reduction in height of a front boundary fence and gates to 1m, and (Appeal C) against refusal of planning permission for 'Retention of a 2m high timber fence with access front gate to front property and covered car port'. The date for compliance with the requirements of the Enforcement Notice was 6<sup>th</sup> April 2021.
- 1.2 Officers visited the site on the 6<sup>th</sup> of April 2021 and observed that the open sided outbuilding has been removed and the fence and gate has been reduced to 1m in height (see figure 1). The requirements of the notice have been met and the breach of planning control has been resolved.



*Figure 1: The site following compliance with the Enforcement Notice*

## 2. Recommendation

- 2.1 It is recommended that the report be **NOTED**.

Tim Mills  
Head of Economy, Planning and Strategic Housing