



Notice of Meeting

Meeting:	Development Management Enforcement Sub-Committee
Date and Time:	Monday 21 October 2024 10.00 am
Place:	Council Chamber
Enquiries to:	Committee Services committeeservices@hart.gov.uk
Members:	Southern (Chair), Quarterman (Vice-Chairman), Delaney, Makepeace-Browne and Worlock

Chief Executive

Civic Offices, Harlington Way,
Fleet, Hampshire GU51 4AE

Agenda

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- At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- The Chair will announce that this meeting will be recorded and that anyone remaining at the meeting had provided their consent to any such recording.**

1 Minutes of Previous Meeting (Pages 3 - 5)

To confirm the minutes of the meeting held on 29 July 2024 as a correct record of the proceedings (copy attached).

2 Apologies for Absence

To receive any apologies for absence from Members*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they will be absent.

3 Declarations of Interest

To declare disclosable pecuniary, and any other, interests*.

***Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.

4 Chair's Announcements

5 Development Management Enforcement Update (Pages 6 - 17)

To note the update on a number of current planning enforcement cases

Date of Despatch: Thursday 10 October 2024

DEVELOPMENT MANAGEMENT ENFORCEMENT SUB-COMMITTEE

Date and Time: Monday 29 July 2024 at 10.00 am

Place: Council Chamber

Present:

Southern (Chair), Quarterman (Vice-Chair), Delaney, Makepeace-Browne and Worlock

In attendance:

Officers:

Mark Jaggard, Executive Director - Place
Mark Berry, Business Development Manager - Place
Louise Moore, Interim Planning Enforcement Team Leader
Fehintola Otudeko, Shared Legal Services
Kathy Long, Committee Services Officer

1 ELECTION OF CHAIR FOR THE 2024/25 MUNICIPAL YEAR

Cllr Makepeace-Browne nominated Cllr Southern as Chair for the 2024/25 Municipal Year. This was seconded by Cllr Delaney. There were no other nominations.

Decision

Cllr Southern was elected as Chair of the Sub-Committee for the 2024/25 Municipal Year.

2 ELECTION OF VICE-CHAIR FOR THE 2024/25 MUNICIPAL YEAR

Cllr Makepeace-Browne nominated Cllr Quarterman as Vice-Chair for the 2024/25 Municipal Year. This was seconded by Cllr Southern. There were no other nominations.

Decision

Cllr Quarterman was elected as Vice-Chair of the Sub-Committee for the 2024/25 Municipal Year.

3 MINUTES OF PREVIOUS MEETING

The minutes of the Development Management (Enforcement) Sub-Committee held on 15 January 2024 were agreed as a correct record of the proceedings.

Proposed by Cllr Makepeace-Browne; seconded by Cllr Southern.

4 APOLOGIES FOR ABSENCE

There were no apologies for absence.

5 DECLARATIONS OF INTEREST

Cllr Quarterman declared a non-prejudicial interest in the Enforcement Update item in respect of the SANG at Moulsham Lane, Yateley, for the reason that he lived close to this site and remained in the meeting during the discussion on this item.

6 CHAIR'S ANNOUNCEMENTS

There were no announcements.

7 ENFORCEMENT UPDATE

The Planning Enforcement Team Leader introduced the report and highlighted that:

- in March 2024, Cabinet had adopted a new Local Enforcement Plan which covered both development management and environmental health/licensing. This Plan replaced the previous Planning Local Enforcement Plan which had been adopted in January 2016; and
- from 25 April 2024 a number of changes had been made to legislation relating to planning enforcement. The key matters were set out in the Officer's report.

During discussion on changes in legislation, Members questioned:

- Whether Officers had any concerns about the changes in legislation; and
- What would happen if officers could not complete a temporary stop notice within the 56 days limit and, in particular, if another temporary stop notice could be issued?

Members were advised that:

- Officers had positively received these changes in law as it would provide more time for officers to prepare the necessary information; and
- After 56 days, it would be necessary to issue a stop notice.

The Sub-Committee was advised that, between 1 January to 31 March 2024, the enforcement team had received 24 requests to investigate alleged breaches of planning control from customers. Between 1 April and 30 June this figure had increased to 45 requests. Overall, when compared to previous years, it was felt that there had been a steady reduction in requests to investigate. The number of

complex cases was considered to be at a more manageable caseload than in previous years.

During discussion an update was requested on the current team in planning enforcement. In response, the Sub-Committee was advised that Stephanie Baker had returned from maternity leave as the Development Management & Building Control Manager. Louise Moore was currently covering the Team Leader role covering planning, and it was intended to fill this role permanently. Mr Berry would be staying with the Council until the end of the year and was leading on a number of projects.

During discussion, it was asked what was being done to ensure that planning conditions were enforceable. In response, Members were advised that work has been done to ensure that planning conditions were enforceable.

The Planning Enforcement Team Leader ran through update on a range of cases which was attached to the Officer's report

The Sub-Committee noted the updates on planning enforcement, as set out in the report.

The meeting closed at 11.27 am

Development Management Enforcement Sub-Committee

Date of meeting: 21st October 2024

Title of Report: Development Management Enforcement update

Report of: Executive Director – Place

Cabinet Portfolio: Planning Policy and Development Management

Key Decision: No

Confidentiality: Non-Exempt

Purpose of report

1. To provide the Development Management Enforcement Sub-Committee with an update on a number of current planning enforcement cases.

Recommendation

2. That Planning Enforcement Sub-Committee notes the updates of the cases as set out in Appendix 1.

Background

3. The Council has a duty to investigate complaints about development, including building and engineering works and changes of use, that may have been carried out without the necessary permission or consent.
4. Effective planning enforcement is a useful tool in tackling breaches that would otherwise have had an unacceptable impact on amenity in the district and to help maintain the integrity of the development management process.
5. There are a range of enforcement powers available to the Council, however whether the Council takes any enforcement action is a discretionary matter. When considering taking any formal action the Council must consider if it is expedient to do so having had regard to the Development Plan and any other material considerations including the Local Enforcement Plan. It is also necessary to weigh up in each case whether taking Enforcement Action is in the public interest.
6. Taking formal Enforcement Action should be regarded as a last resort and many breaches of planning control can be resolved informally without action being taken. For example, retrospective planning permission can be obtained, or Officers may be able to negotiate to ensure the breach cease.
7. Councillors are often the public face of the Council and Member involvement in planning matters is crucial in maintaining an effective enforcement service. This report has therefore been prepared to provide an update on a number of cases.
8. Whilst taking formal enforcement action by serving Enforcement Notices or other actions can be high-profile what often gets overlooked is the amount of

work involved in collaboratively resolving cases without the need for formal action which has resulted in a breach ceasing or being regularised.

Main issues

9. Number of Service Requests

Between 1 January to 31 March the enforcement team received 24 requests to investigate alleged breaches of planning control from customers.

Between 1 April and 30 June the enforcement team received 45 requests to investigate alleged breaches of planning control from customers.

Between 1st July to 30th September the enforcement team received 60 requests to investigate alleged breaches of planning control from customers.

Number of service requests

	2018/19	2019/20	2020/21	2021/22	2022/23	2024/25
Q1 April-June	80	90	79	109	56	45
Q2 July- September	77	87	102	60	47	60
Q3 October - December	55	67	85	49	41	
Q4 January - March	60	72	55	67	56	

In previous years the number of service requests spiked, particularly during the Covid-19 pandemic. Since that time there has been a steady reduction and more manageable plateau. It remains fair to say that there are complex cases on the system still and these can include multiple interested parties to relay updates to.

10. Number of cases closed and resolution

When a request to investigate an alleged breach of planning control is received, the case is prioritised by the Enforcement Team Leader in accordance with the Council's Local Enforcement Plan:

Priority 1 – High priority

Investigation commenced (site visit where appropriate) in up to 2 working days

A breach of planning control causing, or likely to cause, serious harm to the natural or historic environment or to public safety unless an immediate response is made, for example:

- demolition or alteration of a Listed Building,
- demolition of a building within a Conservation Area,

- works to trees protected by a Tree Preservation Order or within a Conservation Area, and
- any unauthorised development/activity/operation, falling within planning control that presents an immediate and serious danger to the public.

Priority 2 – Medium Priority

Investigation commenced (site visit where appropriate) in up to 10 working days

- development not in accordance with the approved plans or material beaches of planning conditions during the construction process,
- development causing serious harm to the amenity of nearby residents, e.g. through impact on privacy or outlook,
- unauthorised development that has a significant adverse impact on the character of an area,
- commencement of works without clearing conditions precedent,
- advertisements in sensitive areas,
- non-compliance with planning conditions, and
- untidy sites.

Priority 3- Low Priority

The team's ability to pursue low priority cases will be dictated by the total number of cases under investigation and the number of pending high and medium priority cases. During periods that the team have a large number of cases or significant number of high/medium priority cases the team will be unable to progress those reports deemed to be low priority. The team will set out indicative timeframes for progressing low priority investigations in their communications with you.

Breaches of planning control that cause limited or no harm to the environment or residential amenity, for example:

- residential and other development marginally above permitted development tolerances,
- minor works including fences, walls, small extensions,
- boundary treatments,
- aerials and antennae on dwelling houses,
- development not being built in accordance with approved plans, where the differences are less significant and less likely to result in amenity problems, and
- unauthorised advertisements in less sensitive locations.

Once the initial investigation has been completed, officers make a recommendation on the case.

13. There are currently 160 live cases pending consideration and 41 cases with notices issued.
14. The team are busy and in the last quarter have:
 - Issued 4 x Planning Contravention Notices (PCNs)
 - Received 60 new requests to investigate alleged breaches of planning control
 - Closed 160 cases
15. There are 4 live appeals relating to enforcement notices.

Corporate Governance Considerations

Relevance to the Corporate Plan

16. The Hart Corporate Plan 2023-2027 has three focus area:
 - Planet - make all areas directly under the control of the Council carbon neutral by 2035 and make Hart a carbon neutral district by 2040,
 - People – fair treatment for all, help for those in need, and a sustainable economy that makes Hart a great place to live, work and enjoy and
 - Place - delivering warmer, better homes in sustainable locations that people can afford to live in.
17. This is underpinned by providing a resilient and financially sound Council
18. The Hart Corporate Plan 2023-2027 provides a high-level strategic framework for the decisions we take. It describes our most important aims and the priority activities that we will focus on delivering. The Local Enforcement Plan helps to clarify how we will use the limited resources in the Planning Enforcement team wisely and focus on the priorities.

Service Plan

- Is the proposal identified in the Service Plan? No
- Is the proposal being funded from current budgets? Yes
- Have staffing resources already been identified and set aside for this proposal? Yes

Legal and Constitutional Issues

19. There are no legal or constitutional issues raised by the recommendations in this report.

Financial and Resource Implications

20. There are no financial or resource implications associated with the recommendations in this report.

Risk Management

21. There are no risk management matters associated with recommendations in this report.

Equalities

22. There are no equalities matters associated with the recommendations in this report.

Climate Change Implications

23. There are no climate change implications matters associated with the recommendations in this report.

Action

24. It is recommended that the Committee notes the contents of this report.

Appendices

Appendix 1: Update on planning enforcement cases.

Appendix 1: Update on notable cases

Land South of Beechcroft, Hares Farm, Pickaxe Lane, South Warnborough

The Council was successful at securing an Injunction Order to prevent residential occupation of an unauthorised building in the countryside in advance of any overnight use. The Order was contested by way of Variation application on the grounds of a material change in circumstances and was heard in May 2023. The Court dismissed the application for a Variation and the Injunction Order remains intact. Since that time, it is apparent to Officers that the Order has been breached. Officers have reminded the Defendants in 2023 and 2024 of the status of the Order. There are serious repercussions of failing to adhere to the Injunction Order including fine, imprisonment or seizure of assets, as contempt of court. The Defendants were reminded that the Council would prefer to avoid court action and would encourage cessation of any breach to ensure compliance.

It appears that the Defendants did not cease the breach of the Order and Officers will be attending the High Court regarding this matter.

Following the issue of an enforcement notice an appeal was lodged and the Council submitted its hearing statement to the Planning Inspectorate in October 2023 to defend the appeal.

Update as of October 2024: Injunction hearing at High Court now set for 12th to 14th November. Hearing date for planning enforcement notice appeal set for 20th November.

Chapel Bungalow

Investigations have re-commenced with the Enforcement and Environmental Health teams working together to review current activities on the site, the previous Certificate of Lawfulness 00/00370/LDCEX and the current application 24/00595/LDC.

The Parish Council have been informed of progress in general terms although the details remain confidential as this is an active enforcement investigation.

Update as of October 2024: Investigation is ongoing with both teams working closely together. Planning Contravention Notice served by Planning Enforcement and response received. Environmental Health have served a similar notice and we are awaiting the response to this before having a final review meeting and a decision as to the appropriate action by each team.

Big Meadow / Wingate Lane, Long Sutton

Whilst Plot 1 was previously rented out and occupied, this was without Building Control completion. Plot 4 has continued to remain empty.

In terms of the S106 agreement and the Injunction, no sums have been received to date against the outstanding amount. It is understood that the receiver is also reviewing the landscaping scheme and the topography (plus the drainage details) to propose an alternative scheme which apparently would comprise a similar design, albeit with a different topography.

The receiver has been advised that any deviation from the approved scheme will require regularisation through the planning system, and that any work undertaken ahead of this would be at their own risk.

Update as of October 2024: There is a current application to vary the terms of the S106 legal agreement. The Receiver is seeking to be relieved of the S106 obligation to pay the second affordable housing contribution and they have submitted a financial appraisal setting out why the development cannot sustain the full suite of planning obligations in the agreement. Officers are assessing the detail contained within the application and are seeking external independent verification of the financial information provided to ensure it is appropriately scrutinised. With advice from the independent verifiers, Officers have sought to clarify the terms of the financial appraisal with the Receiver but, after some weeks, they have yet to respond (7 Oct.). Officers are aware of the concerns being expressed by residents and the Parish Council's eagerness to find a resolution. However, the Council will only re-negotiate the contributions set out within the S106 if there is clear justification for doing so.

Land at Five Acres, Broad Oak, Odiham

An enforcement notice relating to a change of use of land arising from the siting of a mobile caravan structure for residential purposes in relation to the keeping of alpacas on the above-mentioned land was issued in September 2021. The subsequent appeal was dismissed, and the owners were required to remove the caravan and supporting development. A compliance check was carried out in December 2023, and this confirmed that the caravan remains on site, but at that time it appeared not to be occupied. The owner advised that efforts are being made to sell the structure so that it can be removed from the site.

The caravan remains on site and evidence suggests that limited effort is being made to sell the caravan. It has only been listed for sale on a single online selling site and the owner has advised Officers that there has not been any notable interest.

The Council now needs to consider the options available in pursuing non-compliance with the enforcement notice, which was upheld by the Planning Inspectorate. These options include; direct action by the Council to demolish, remove and dispose of the caravan and return the site to its former condition; or alternatively to pursue prosecution action through the courts.

Update as of October 2024: An update has been sought from the owners as to if the caravan has been sold. Also requested is evidence of efforts to advertise and sell the caravan so it can be included in report to legal.

Land To the North of London Road, Hook, Hampshire

Planning application 22/01987/AMCON, *Variation of Condition 2 attached to Planning Permission 17/01123/REM dated 01/11/2017 to allow the replacement of the hoggin path with a boardwalk path*, is currently being considered by the planning officer.

Should the application be refused, consideration to the most appropriate enforcement action will be considered in regard to the reasons for refusal.

Update of October 2024: Following refusal of the above application, the matter has been passed to enforcement to investigate the discrepancies between the approved plans and the on-the-ground scenario

Swallow Cottage, Rye Common, Odiham, Hook, Hampshire, RG29 1HU

Retrospective planning application 22/02473/FUL (Erection of stable block and siting of horse walker with associated access drive and hardstanding was refused and was dismissed by the Planning Inspectorate at appeal. Officers are currently in discussion with the owner and appointed agent.

Update as of October 2024: Change of appointed agent by owner and new agent has been updated. Progress has not proceeded as expected, the agent has been advised a BCN will be served for the access (non-compliance of Condition 3 on planning permission 23/01362/FUL) and an update is required on the refused/appeal area in regard to removing unauthorised works.

2 Castle Bridge Cottages, North Warnborough

The Planning Enforcement Sub-Committee considered a range of matters relating to a number of properties at Castle Bridge Cottages in June 2023.

In respect of 2 Castle Bridge Cottages, the report recommended serving a listed building enforcement notice requiring the replacement of two unauthorised uPVC windows. The Enforcement Sub-Committee resolved the following:

'Members of the Sub-Committee felt that it would be most appropriate, under the owner's current circumstances and given the length of time that the uPVC windows had been in place, to put forward and agree an alternative recommendation.

Members agreed that in time it was appropriate for the uPVC windows to be replaced with windows of an appropriate manufacture in keeping with the Grade 2

listed status of the building. Members considered this should be prior to the time of sale of the property or on need to replace the windows in question, whichever came first. The cost of the replacement of the window frames to be borne by the current owner.

It was noted that there needed to be a charge on the land to ensure this was clear. It was also discussed there needed to be precise timeframe for the works, and it was recognised that Members felt this should be an extended period.

Update as of October 2024: Instructions have been sent to legal to serve a Listed Building Enforcement Notice, the draft Notice has been received and is undergoing review.

SANG (Sites of Accessible Natural Greenspace) at Moulsham Meadows, Forest Park, Yateley)

This is an ongoing issue due to a number of snagging issues, mainly landscaping matters, delaying the completion of the SANG. The Greenspaces Manager is liaising with the developer and updating the enforcement officer on progress.

Update as of October 2024 – The Greenspaces Manager has advised he is satisfied with progress and happy with site. Final review check due in November and hopeful matter can be considered resolved.

Hatchwood Place (De Montford Place), Odiham

There are ongoing issues with landscaping scheme and significant replanting has been required.

Update as of July 2024: Planning Officers and Countryside are in touch with the developer and are arranging a meeting in the next couple of weeks to discuss any further remedial works required. They are also in contact with the Parish Council with regard to eventual adoption. It is hoped that the adoption and transfer of the requisite commuted sum for ongoing maintenance will be agreed before the end of 2024 and that the open space can then be maintained satisfactorily moving-forward.

Update as of October 2024: The Countryside Team have been working with the Parish Council on potential future maintenance costs. They have also carried out a “snagging” visit to the site. The costs of rectifying current problems and the potential commuted sum will need to be fed back to the developer and, at present, there is no agreement in principle from the Parish Council to adopt the site. This will depend on agreement with the developer on the costs and, if agreement cannot be reached with the developer to hand the site over in a suitable condition and with an agreed commuted sum for future maintenance, other options than adoption by the Parish will need to be considered. There is to be a meeting with the developer when the Parish have considered the figures and responded.

Land North of Winchfield Court

A Temporary Stop Notice (TSN) and 2 x enforcement notices were served in relation to 3 of the parcels of land in May of 2021 requiring that the use of the land for the stationing of a caravan used for residential accommodation and storage of waste/building materials ceased and unauthorised operational development including erection of gates/fencing exceeding 1 metre in height, an unauthorised access, engineering works, culverting works, alterations to a former sewage pumping station, unauthorised extensions to the building and the creation of a hardstanding were removed.

Following a thorough review of the case the Council, following consultation with the Parish Council and the local residents, decided to withdraw both enforcement notices. It is proposed to issue new notice(s) which will better capture the breaches of planning control on site and expand on the reasons for taking action.

In the revised notice(s), it is proposed to better address the concerns of local residents and the Parish Council and link to the revised content of the December 2023 version of the NPPF and recently 'made' updated Neighbourhood Plan as well as the Local Plan. This will give more robust notice(s).

It is proposed to wait for the determination of the planning appeal on the adjacent site as the Decision notice may also inform how the enforcement notice is framed.

Revised notice was served on 19th March 2024 and was subsequently appealed.

Update as of October 2024: Awaiting appeal decision

Granary Court, South Warnborough

An enforcement notice was issued on 7 September 2023 relating to the carrying out of engineering operations to form a means of vehicular access onto a classified road (B3349) comprising the re-grading of the bank and laying of a new hard surfaced area. The enforcement notice has been appealed.

Update as of October 2024: Awaiting appeal decision from the Planning Inspectorate

21 Elvetham Bridge, Fleet

There have been a number of applications seeking a Certificate of Lawfulness (existing use) for the *'change of use of agricultural land to land used for siting of four mobile homes within the curtilage of No. 21 (retrospective)*. These applications have been withdrawn by the applicant.

Update as of October 2024: An application has been received to regularise the three mobile homes that have been on the land in excess of 10 years, 24/01310/LDC. The application is due to be determined by 5th November.

Hawley Park Farm, Blackwater

The Planning Enforcement Sub-Committee considered a range of matters relating to the Hawley Park Farm site in October 2022.

The main issue that remains relates to the provision of the Suitable Alternative Natural Greenspace (SANG) at the Hawley Park Farm site. Officers visited the site in November to review the condition of the SANG. The SANG is substantially complete and is well-used. Some minor maintenance issues were noted during the visit which have been brought to the attention of the developer (Crest Nicholson) to address. It was noted during the visit that a number of trees had failed across the site. The developer has confirmed that the failed trees will be replaced before the end of the current planting season (end of March).

Update as of July 2024: Ward members will be aware of ongoing correspondence from some residents about the state of the planting on site and within the proposed SANG. With the exception of a specific issue around a gap in the vegetation on Fernhill Lane, planning officers are largely satisfied with the planting although the state of maintenance is a cause for concern. Countryside will continue with their adoption procedure on the SANG (the condition of the SANG is a cause for concern as well) and planning officers will need to certify under the S106 agreement that the planting in the other communal areas is satisfactory before it is handed over to the Management Company.

There was recently a failed attempt by Crest Nicholson (the developer) to deal with the problem of pedestrians accessing Fernhill Lane over the boundary fence and down a steep bank which is both dangerous and incompatible with the proposed closure of the gap in the hedge.

Crest Nicholson have now confirmed that they will undertake further works before the end of July and this information has been shared with our Ward Members and Rushmoor. The works comprise the following:

1. Replace the existing wire mesh with a heavy duty, welded galvanised steel wire mesh suitable for security fences.
2. Install the wire mesh to the full height of the fence (1.5m).
3. Install the wire mesh in lengths / panels to fit between the timber posts.
4. Securely screw fix the wire mesh to both the posts and the rails.
5. Attach repositioned Heras fencing to the post and rail fence where the gaps in the hedge remain for the duration of getting the new planning established.
6. The enhanced planting to be installed in accordance with the approved design drawing and specification. Includes installation of more mature planting to close the above-mentioned gap.

It is hoped that the above measures will resolve the problem of pedestrians accessing Fernhill Lane down the bank, but this is not guaranteed.

Update as of October 2024: Site visit undertaken at the end of September - the fencing along Fernhill Lane almost complete with the required boundary planting to

be done within the next couple of weeks. Further inspections to be carried out once the fence is complete and then when the planting is in place.

Bungalow Farm, Derby Green

Complaints were received in March concerning possible unauthorised works on the land, removal of a hedgerow, removal of a large oak tree/s and a culvert being covered/filled in.

The officer also advised/discussed with HCC, Thames Water and Yateley Police.

Following discussions with the owner, the officer established that the intentions were to level site and install post and rail fence to the front.

Clearing of the land, removal of the hedgerow and tree and erection of fence are not a breach of planning control, and no action can be pursued. Officers however are continuing to monitor the site.

Update as of October 2024: No further works or activity on site