

## **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 12<sup>th</sup> to 14<sup>th</sup> November. Hearing date for planning enforcement notice appeal set for 20<sup>th</sup> 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 19<sup>th</sup> 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 5<sup>th</sup> 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