



WOKINGHAM BOROUGH COUNCIL

Statement by Local Planning Authority

Appellant:	Mr Billy Mobey
Site:	Land adjacent to 42 King Street Lane Winnersh Wokingham RG41 5AZ
Local Planning Authority References:	RFS/2025/090951 & 260617
Planning Inspectorate Reference:	6006243
Date	12 th May 2026
Report Author	Kieran Neumann Senior Planning Officer

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Appendices

- Appendix 1 – RFS/2025/090951 Enforcement Notice
- Appendix 2 - RFS/2025/090951 Expediency Report
- Appendix 3 – Suggested Conditions

1. INTRODUCTION

- 1.1. This statement of case relates to the issuing of an Enforcement Notice (RFS/2025/090951) for an alleged breach of planning control at Land adjacent to 42 King Street Lane, Winnersh, RG41 5AZ. The alleged breach is outlined as follows:

“Without planning permission, the material change of use of amenity land to residential and the erection of associated fencing and posts.”

- 1.2. The Enforcement Notice (**Appendix 1**) was both hand-delivered and posted to all relevant stakeholders for the land on 9th February 2026. The Notice outlines the following requirements to ameliorate the alleged breach:

- i) Cease the residential use of the Land.
- ii) Remove from the Land the fencing including fence posts and foundations between the points marked A to B shown in the approximate location edged in blue on the attached plan.
- iii) Return the Land to its former condition prior to the breach taking place.
- iv) Permanently remove all resultant materials associated with steps (ii) and (iii) from the Land.

- 1.3. The time period for compliance as set out in paragraph 1.2 above is 3 months. A Copy of the Enforcement Notice Plan can be seen in **Figure 1** below. The Expediency Report is available under **Appendix 2**.

Land adjacent to 42 King Street Lane, Winnersh, Wokingham, RG41 5AZ

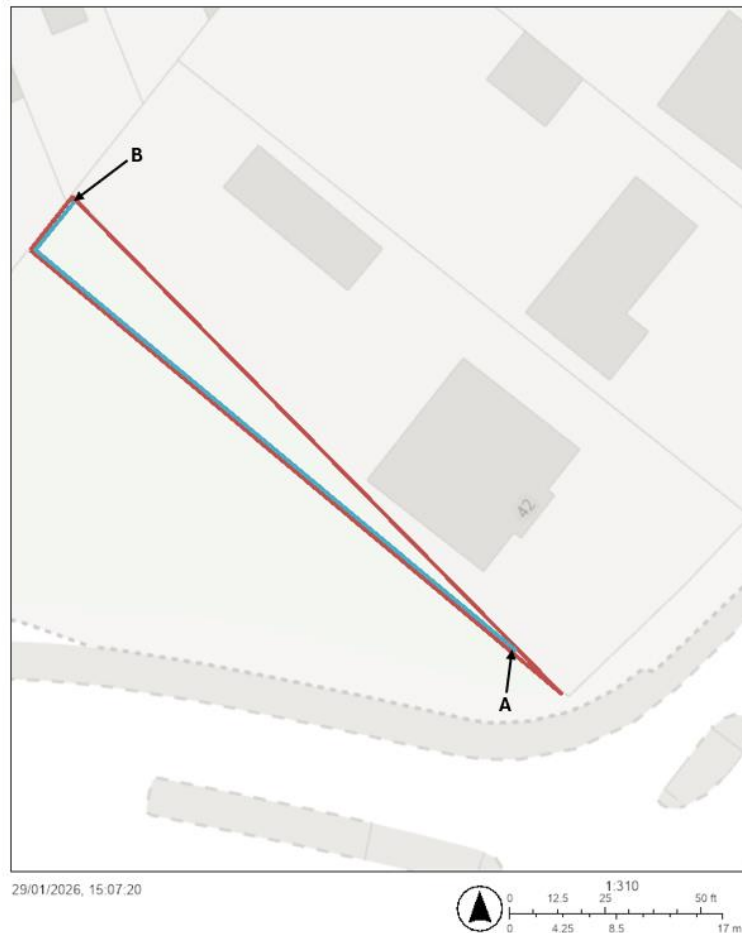


Figure 1: Enforcement Notice Plan (RFS/2025/090951)

1.4. The grounds of appeal set out by the Appellant (in appropriate order) are as follows:

- Ground (b) - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- Ground (a) - That, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- Ground f) – that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

2. THE SITE

- 2.1. No.42 King Street Lane is a detached dwellinghouse located adjacent to the cross roads that links King Street Lane, Hatch Farm Way and Longdon Road. The amenity land adjacent to no.42 King Street Lane is a large area of strategic landscaping associated with the Hatch Farm residential development to the north-west of the application site, which is located within the South of M4 Strategic Development Location.
- 2.2. As part of Outline Consent 060468 and the associated Reserved Matters application 153359, nos.42 and 44 King Street Lane were both permitted for demolition to make way for a large area of planted amenity land, forming part of the wider landscaping for the Hatch Farm development to the north-west (see **Figure 2** below).



Figure 2: Excerpt of the approved landscaping plan associated with Reserved Matters consent 153359 and the associated Discharge of Conditions application 152947

- 2.3. However, in June 2020, a Non-Material Amendment (NMA) application (200964) was approved for the retention of no.42 King Street Lane. As such, the amenity land was adjusted in size and design to accommodate its retention.



Figure 3: Excerpt of Location Plan associated with NMA consent 200964

- 2.4. In more recent years, an application was approved on 11th November 2022 to replace the original bungalow with a two storey dwellinghouse (application reference: 223051), with the associated landscaping condition discharged under application 230181 on 9th March 2023. The block and landscaping plans can be seen below in **Figures 4 and 5**, which maintains the residential site's original fence line.

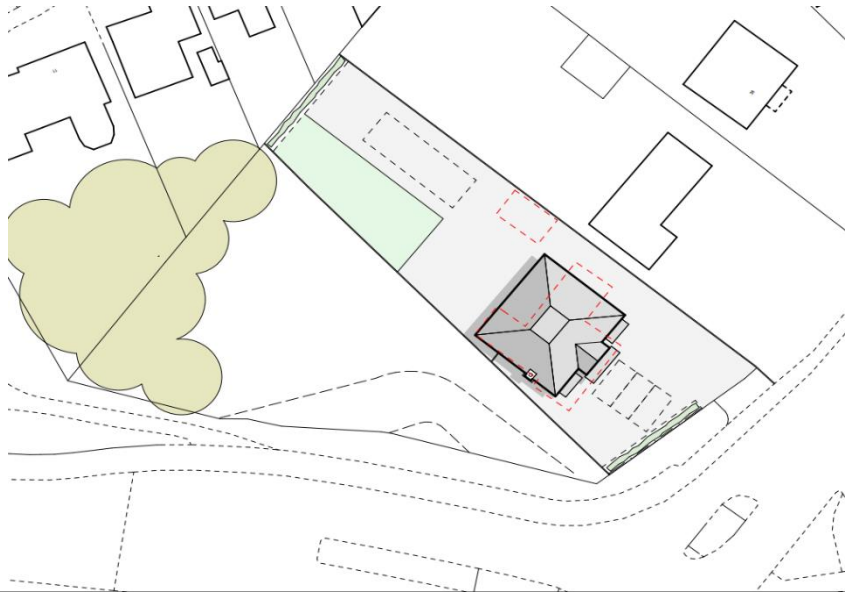


Figure 4: Excerpt of the approved block plan associated with consent 223051

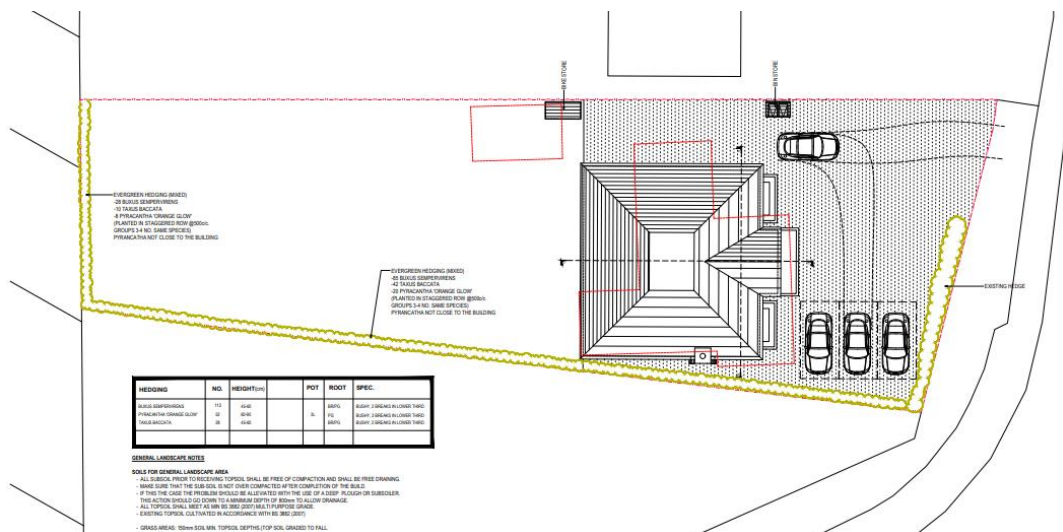
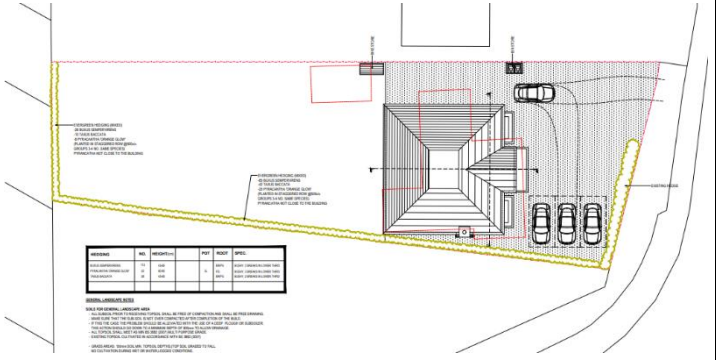


Figure 5: Excerpt of the approved landscaping plan associated with consent 230181

3. PLANNING HISTORY

Application No.	Description	Decision & Date
060468 (Hatch Farm Development)	Proposed Development of land at Hatch Farm Dairies for the construction of up to 433 dwellings with associated internal access roads, garaging and car parking. A link road including new junctions with King Street Lane and Lower Earley Way (forming Phase 1 of the Winnersh Relief Road). Primary School (up to 2 form entry) including associated pitches / play areas/Open space including a Community Woodland and a Country Park. Engineering operations to provide for flood compensation and flood protection. Other associated works including landscaping, creation of swales and ponds as part of the sustainable Urban Drainage proposals (SUDs) and sewage treatments.	Approved 19/11/2014
152359 (Hatch Farm Development)	Reserved Matters application (Appearance, Landscaping, Layout and Scale to be considered) pursuant to outline planning consent O/2006/8687 relating to the erection of 433 dwellings, associated amenity space, car parking including garaging, internal access roads (accessed from approved Phase 1 Winnersh Relief Road between King Street Lane and Lower Earley Way) and private drives, pedestrian and cycle links, hard and soft landscaping including public open space, infrastructure provision including provision of surface water drainage and foul drainage (including foul water pumping station), undergrounding of power lines and other associated works.	Approved 28/10/2016
152947 (Hatch Farm Development)	Application for submission of details to comply with the following conditions of planning consent O/2006/8687 dated 19/11/2014: 5. Details of boundary treatments. 6. Details of hard and soft landscaping. 13. Details of external lighting.	Approved 28/08/2020

		
200964 (Hatch Farm Development and 42 King Street Lane)	Application for non-material amendment to planning consent 152359 to retain No.42 as a dwelling with its associated curtilage. 	Approved 03/06/2020
223051 (42 King Street Lane)	Full application for the proposed Erection of one 5no. bedroom dwelling, following demolition of existing dwelling and garage. Temporary siting of caravan at rear of property for ancillary residential	Approved 30/11/2022

	use while replacement dwelling is being constructed. 	
230181 (42 King Street Lane)	Application for submission of details to comply with the following condition of planning consent 223051 dated 30/11/2022. Condition 3. External Materials. 5. Cycle Parking Details. 8. Landscaping. 	Approved 09/03/2023

4. GROUND B) APPEAL

- 4.1. This ground of appeal alleges that the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- 4.2. The Appellant considers that the allegation is imprecisely worded and requires correction. Specifically, they raise the following concerns/requests:
 - A request to add the words 'The unauthorised development' in brackets for clarity.
 - The reference to "associated" fencing is incorrect, as fencing constitutes operational development in its own right.
 - The reference to "posts" is unnecessary as posts form an integral component of the fence rather than separate development.
 - The reference to "amenity land" is not material to the allegation itself.
- 4.3. With regards to the request to include 'unauthorised development' in the allegation, this is considered unnecessary for the purposes of clarity. The entire reason the Enforcement Notice was served on the development is because it is unauthorised and contrary to local and national policies. It is not viewed as necessary to clarify this with a specific reference to the unauthorised nature of the development, as the Enforcement Notice clearly implies this already.
- 4.4. With regards to removing reference to 'associated' fencing, whilst the Council acknowledge that the fencing constitutes operational development in its own right, it is the fencing which facilitates the material change of use through the enclosure of the amenity land, forming an extension of no.42 King Street Lane's residential curtilage. The fencing is part and parcel of the change of use as a whole, and the inclusion of 'associated' is considered more than appropriate. The well-known *Murfitt* case principle allows enforcement notices to require the removal of operational development that is ancillary to the unauthorised change of use, as is the case here.
- 4.5. With regards to removing reference to posts, the Council agree that it forms

an integral component of the fence. Notwithstanding this, specific reference is made to the posts to avoid any confusion pertaining to the requirements to ameliorate the planning breach; as can be seen in **Figure 1** above, the posts are used as a visual aid to clarify which parts of the fencing require removal. As such, the inclusion of posts within the allegation is considered justified.

4.6. Penultimately, the Appellant argues that reference to the land's original use (amenity land) does not require specific reference within the allegation, since it is not material to the allegation. The Council wholly disagree with this argument, as it is the very nature of the amenity land that has led to the Enforcement Notice in the first place. For the sake of complete clarity, the Council consider it pertinent to refer to both the original land use, and the unauthorised change of use subject of this appeal to fully understand the impact of the development.

4.7. Lastly, in the form initially submitted with this appeal, the Appellant states the following:

"While a boundary fence has been erected and its alignment differs slightly from the original diagonal boundary line, this has not resulted in a material change of use of the land to residential curtilage. The enclosed land remains capable of being landscaped and planted in a manner consistent with its previous amenity function. The enclosure does not prevent planting or landscaping and therefore does not remove the land's amenity value. The use of the land has not intensified beyond that normally associated with the lawful residential use of the adjoining dwelling."

4.8. The Council wholly disagrees with this judgement. The fence line erected has enclosed the amenity land with the intention of the land forming an extension of no.42 King Street Lane's residential curtilage. Its value as amenity land has been diminished significantly, and to say that the unauthorised development does not affect this value is nonsensical; due to the fence enclosure, it is no longer visible from the public realm, which is a primary factor of amenity land and its benefits.

- 4.9. Overall, the Council believe the allegation is appropriately worded and does not require amendments. The Appellant's appeal on ground b) therefore fails.

5. GROUND A) APPEAL

- 5.1. This ground of appeal alleges that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged. The Appellant states that the repositioning of the fence represents a minor alteration to the boundary alignment and does not result in unacceptable harm to the character or appearance of the area.
- 5.2. The Council have already provided the policy basis for their decision within the Expediency Report associated with the Notice (**Appendix 2**). In total, the unauthorised development has enclosed approximately 180sqm of strategic amenity land associated with the adjacent Hatch Farm residential estate development. The loss of this amenity land and its enclosure by a hard, urbanising boundary treatment can in no sense be considered to meet the relevant policy tests of maintaining or enhancing the high quality of the environment as set out in criterion 1 of CS policies CP1 and CP3, nor can the development be reasonably seen as protecting existing green infrastructure networks (MDD Local Plan Policy CC03) or retaining or enhancing the condition, character and features that contribute to the landscape (MDD Local Plan Policy TB21).
- 5.3. The loss of this amenity land and its enclosure by a hard, urbanising boundary treatment can in no sense be considered to meet the relevant policy tests of maintaining or enhancing the high quality of the environment as set out in criterion 1 of CS policies CP1 and CP3, nor can the development be reasonably seen as protecting existing green infrastructure networks (MDD Local Plan Policy CC03) or retaining or enhancing the condition, character and features that contribute to the landscape (MDD Local Plan Policy TB21).
- 5.4. The Appellant argues that the fence provides an element of security to the property following a recent break-in, representing a reasonable domestic response to protect the occupants and their property. The Council consider this justification insufficient, since the original fence line provided an equal

amount of security compared to the unauthorised development.

- 5.5. Overall, the unauthorised development fails to maintain or enhance the high quality of the environment, and planning conditions could not satisfactorily mitigate the harm caused. Therefore, the Appellant's appeal on ground (a) fails.

6. GROUND F) APPEAL

- 6.1. This ground of appeal alleges that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. The Appellant considers that the wording of the requirements lacks clarity and goes beyond what is necessary to remedy the alleged breach.
- 6.2. Firstly, the Appellant considers that the first requirement should refer specifically to “ceasing the unauthorised use” rather than a general cessation of residential use. The Council consider that instead of providing more clarity, this suggestion provides less, since it does not specify which use needs to cease to ameliorate the breach. The Council are of the view that there is a need to be precise with the requirements of the notice, and this includes specifying the use that is requested to cease.
- 6.3. Secondly, the Appellant states that the requirement relating to the fencing should be clarified to ensure that compliance with the Notice does not prevent the reinstatement of a lawful boundary fence along the original boundary alignment. To clarify, the wording of the requirements does not prevent this from happening. The Council do not consider it necessary to require the reinstatement of the original boundary as ultimately, it is not a step required to ameliorate the breach.
- 6.4. Overall, the Council consider that the requirements of the notice are proportionate and clear. The Appellant’s appeal on ground (f) therefore fails.

7. CONCLUSION

- 7.1. The LPA considers that a breach of planning control has occurred and that the steps required in the notice are reasonable and not excessive to remedy the breach of planning control. As such the LPA respectfully asks that the appeal is dismissed and the enforcement notice is upheld.
- 7.2. In the event the Inspector is minded to allow the appeal, suggested conditions are available in **Appendix 3**.