



WOKINGHAM BOROUGH COUNCIL

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

Expediency Report RFS/2025/090951

1.0 Background Information

An enforcement investigation commenced on 4th December 2025 related to the unauthorised change of use of land from amenity to residential, facilitated by the land's enclosure by a new fence line. The land in question was an area of amenity land adjacent to 42 King Street Lane, Winnersh. Council Officers first attended the site on 10th December 2025 to investigate further.

Upon the Officers' visit to the site on 10th December 2025, it was discovered that a large area of amenity grassland had been enclosed by an extended fence line, acting as an extension to no.42 King Street Lane's residential curtilage (see **Figures 1 and 2** below). The amenity grassland had been reverted to soil on both sides of the fence, with new planting added on the inside of the fence line. The original fence line was previously defined by the edge of the turf seen in **Figure 1** below.



Figure 1: Site visit photo of no.42 King Street Lane's rear garden and the enclosed amenity land (dated 10th December 2025)

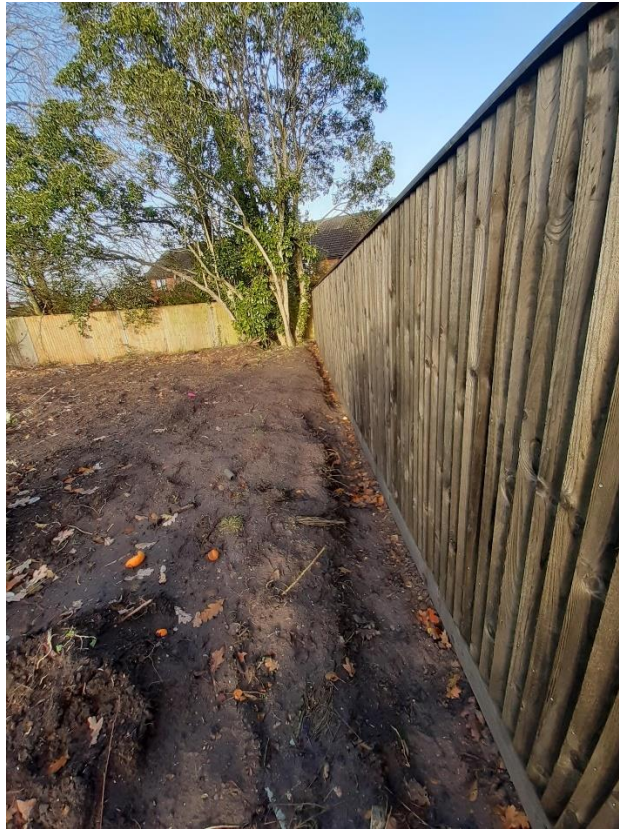


Figure 2: Site visit photo of the amenity land adjacent to no.42 King Street Lane's rear garden, post-works (dated 10th December 2025)

A further comparison between the original new fence lines can be seen below:

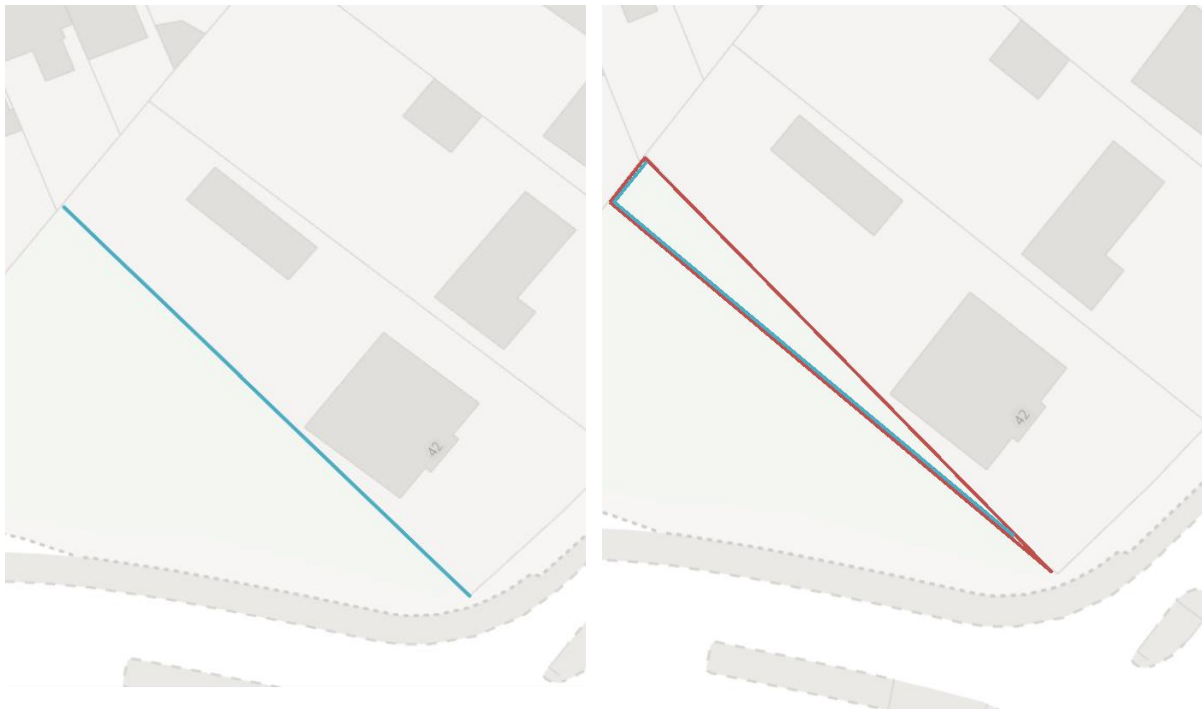


Figure 3: Comparison between original fence line (left) and the new, unauthorised fence line (right)

Following the visit to the site on 10th December 2025, the Case Officer conducted desk-based research to discover who owned the amenity land and no.42 King Street Lane. It was discovered that Vistry Homes (Housing Developer) owned the area of amenity land adjacent to no.42 King Street Lane, including the land that had been enclosed by the new fence line associated with the neighbouring dwelling:



Figure 4: Land Registry Title Plan BK221563 – Owned by Mary Doll Doherty



Figure 5: Land Registry Title Plan BK220741 – Owned by Vistry Homes Limited

Upon concluding the desk-based research, a letter was sent to the owner/occupier of no.42 King Street Lane on 16th December 2025. This letter explained that the unauthorised works and material change of use of the land from amenity land to residential was an unacceptable form of development that would not receive Officer support should an application be submitted. Therefore, the letter instructed the owner of no.42 to do one of the following by 30th January 2026:

- Remove the unauthorised development/restore to the land to its original condition, including the planting.
- Provide the LPA with a reasonable, alternative timeline to remove the unauthorised development.

On 9th January 2026, the Case Officer received a telephone call from one of the owners/occupants of the site, Mr Billy Mobey. Mr Mobey asserted to the Case Officer that he was unsure why an allegation had been made, and that he had simply enclosed land that he believed he owned and was residential in use. It was agreed between Mr Mobey and the Case Officer that a further site visit would be conducted on 20th January with both parties present.

The Case Officer visited the site on 20th January 2026 and spoke to Mr Mobey and his father. It was witnessed that the land had been laid with hardcore, with the intention being to lay artificial grass turf on it for recreational residential purposes.



Figure 6: Case Officer photos of the enclosed amenity land (dated 20th January 2026)

The Case Officer explained to Mr Mobey why the enclosure of the land was considered a material change of use, and provided him with the Land Registry titles of both his land (no.42) and the amenity land owned by Vistry Homes. Mr Mobey contested the information provided, again asserting that the land he had enclosed was under his ownership, but had no evidence to the contrary.

Whilst on site, Mr Mobey explained that he would not be willing to submit an application, despite the lack of an invitation to do so by the Case Officer. He simply outlined that he wanted to be 'left alone'. Furthermore, if an Enforcement Notice was to be submitted, Mr Mobey outlined he would simply take down the fence line and not replace it. The Case Officer acknowledged this and explained that a final decision as to whether enforcement action will be taken will be concluded in the coming weeks.

Following discussions with a senior officer, the Case Officer ultimately informed Mr Mobey on 28th January 2026 that due to the unacceptable nature of the development and the fact he was not willing to submit an application to regularise the works, it was considered expedient to serve an Enforcement Notice on the unauthorised use and works.

On 3rd February 2026, correspondence was sent to Vistry Homes to advise that their land had been incorporated into the garden of a private residence and that as the landowner, notice would also be served on them.

2.0 The Site

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.

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 7** below).



Figure 7: Excerpt of the approved landscaping plan associated with Reserved Matters consent 153359 and the associated Discharge of Conditions application 152947

Figure 8: Excerpt of Location Plan associated with NMA consent 200964

Figure 9: Excerpt of the approved block plan associated with consent 223051

Figure 9: Excerpt of the approved block plan associated with consent 223051

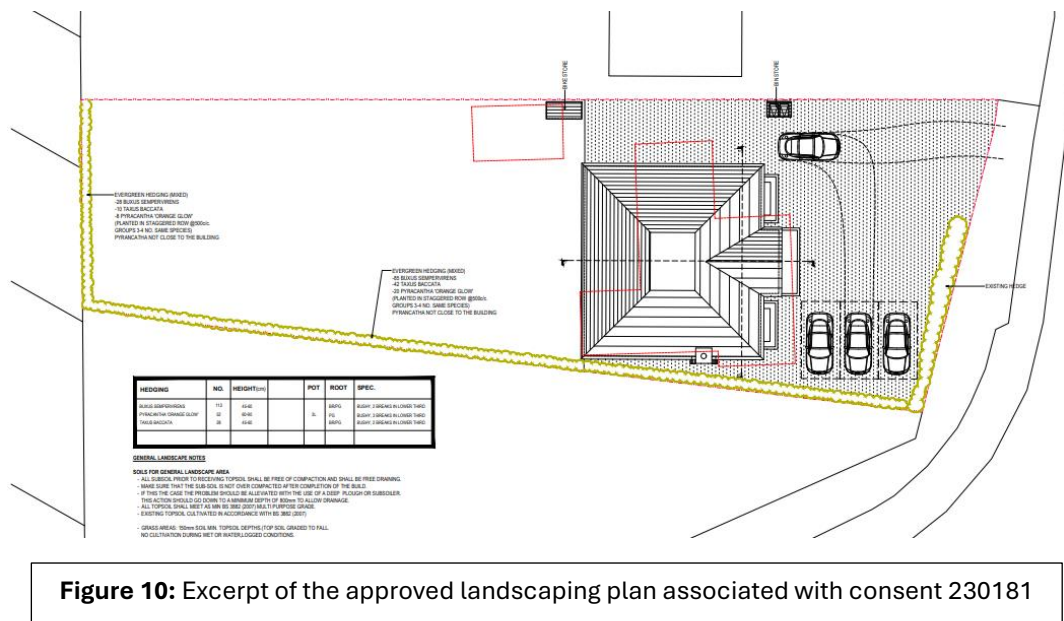


Figure 10: Excerpt of the approved landscaping plan associated with consent 230181

3.0 The Planning Unit

In the case of *Burdle v Secretary of State for the Environment* [1972] 1 WLR 1207 Bridge J took the opportunity to set out clear criteria for determining the correct planning unit. He identified 3 criteria for determining the correct planning unit, which are set out below:

- Whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation is considered.
- Even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another, the entire unit of occupation should be considered.
- Where there are two or more physically separate and distinct uses, occupied as a single unit, but for substantially different and unrelated purposes, each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered a separate planning unit.

Based on the *Burdle Tests*, the planning unit(s) identified below in **Figures 11 and 12** is within the control of the Council. It should be noted that the wider planning unit(s) cross administrative boundaries but it is not essential to identify the unit for the purpose of an enforcement notice providing it is directed at the breach of planning control and meets the *Miller-Mead* tests.

Figure 11 covers the original planning unit of no.42 King Street Lane, prior to the unauthorised works occurring. Figure 12, on the other hand, identifies the amenity land (including that enclosed by the fence line) as a separate planning unit. Each planning unit/use is/visually and physically distinct from one another in terms of appearance and functionality.



Figure 11: Map indicating the residential planning unit known as 42 King Street Lane



Figure 12: The planning unit associated with the amenity land adjacent to 42 King Street Lane

4.0 Alleged breach of planning control

S55 of the Town and Country Planning Act 1990 (as amended) defines “development” in two strands - “the carrying out of building, engineering, mining or other operations, in, on, over or under land” or “the making of any material change in the use of any buildings or other land”.

It is recommended that an enforcement notice is served in respect of the unauthorised development.

In this case the breach of planning control consists of:

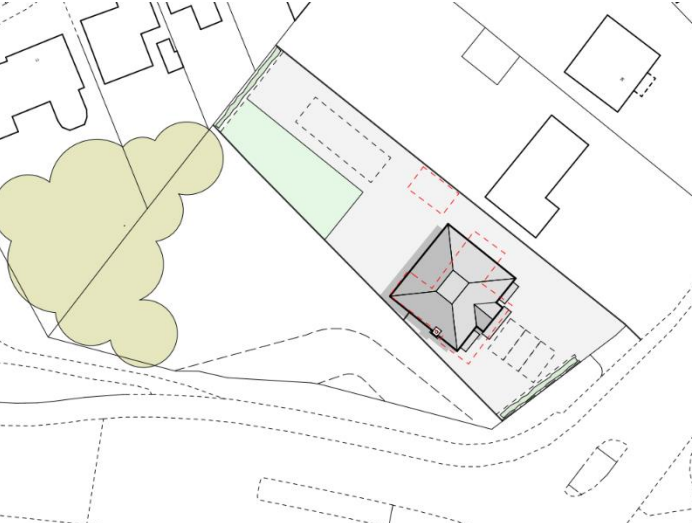
Notice: Operational Development and Material Change of Use

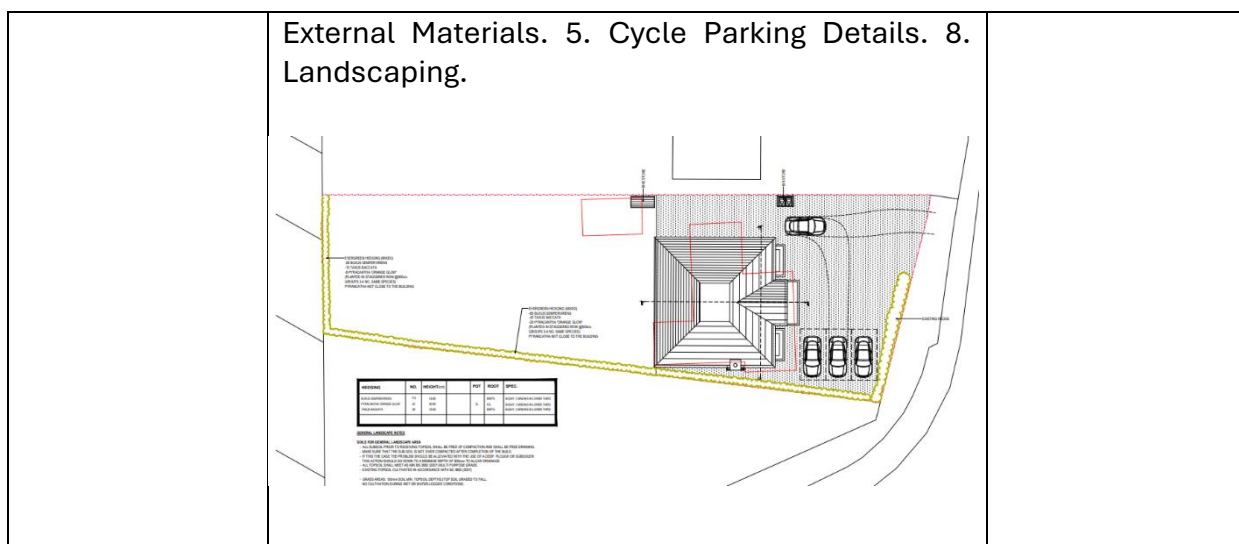
“Without planning permission, the material change of use of amenity land to residential and the erection of associated fencing and posts.”

5.0 Relevant 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,	Approved 28/10/2016

	infrastructure provision including provision of surface water drainage and foul drainage (including foul water pumping station), undergrounding of power lines and other associated works.	
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 use while replacement dwelling is being constructed. 	Approved 30/11/2022
230181	Application for submission of details to comply with the following condition of planning consent 223051 dated 30/11/2022. Condition 3.	Approved 09/03/2023



6.0 Consultations

No further consultations since the recent applications have been undertaken in relation to this report.

7.0 Nature of breach of planning control

The material change of use of amenity land to residential facilitated by the erection of fencing and enclosure of the Land, resulting in the loss of open visual amenities and soft landscaping, has in turn adversely affected the spacious nature and openness of the area including the character and appearance of that area connecting King Street Lane and Hatch Farm Way. This is contrary to the National Planning Policy Framework (2024), Policies CP1 and CP3 of the Wokingham Borough Core Strategy (2010) and Policies CC03 and TB21 of the Wokingham Borough Managing Development Delivery Local Plan (2014), the National Design Guide (2021) and the Borough Design Guide Supplementary Planning Document (2012).

8.0 Material Planning Policies

PLANNING POLICY	
National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP7 – Biodiversity CP9 – Scale and Location of Development Proposals
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC06 – Noise CC09 – Development and Flood Risk CC10 – Sustainable Drainage

	TB21 – Landscape Character TB23 – Biodiversity and Development
Other	Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List National Design Guide

9.0 Main Planning Issues

Policy Context:

The Wokingham Borough Council Local Plan sets out the requirements for sustainable development at policy CP1 of the Core Strategy. Criterion 1 of Policy CP1 states that proposals should maintain or enhance the high-quality of the environment.

Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high quality design. It also states that proposals should *“Contribute to a sense of place in the buildings and spaces themselves and in the way they integrate with their surroundings (especially existing dwellings) including the use of appropriate landscaping”*.

Policy CC03 of the MDD Local Plan sets out that development proposals should provide for new or protect and enhance the Borough’s Green Infrastructure networks, and promote accessibility, linkages and permeability between and within existing green corridors including public rights of way such as footpaths, cycleways and bridleways. Policy TB21 of the MDD Local Plan refers that *“Proposals shall retain or enhance the condition, character and features that contribute to the landscape”*.

R1 of the WBC Design Guide states that Residential development should be designed to contribute positively towards the historic or underlying character and quality of the local area. This may be achieved through blending in with a strongly positive existing character, responding where relevant to the positive elements of its historic context or, where the site is large enough to allow for a distinctive identity to be created, by establishing a new character that relates well to the existing.

The National Design Guide section B1, paragraph 67 also states that the built form of well-designed placed should relate well to:

- the site, its context and the opportunities they present;
- the proposed identity and character for the development in the wider place;

Paragraph 68 follows on from this stating that houses and streets should establish an appropriate relationship with the pattern, sizes and proportions of existing houses in the local area.

Assessment:

Amenity land is a key urban design principle when designing built development and has several beneficial properties, namely:

- Visually enhancing the public realm, primarily by offsetting the massing and urbanising nature of built development.

- Improving permeability, connectivity and visibility for both pedestrians and motor vehicles, in the interests of highway safety.

In light of the above, the unauthorised development carried out and consequent change of use of land from amenity to residential has resulted in the loss of a notable area of public soft landscaping, to the detriment of the open visual amenities of the area.

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).

Overall, the unauthorised development has adversely affected the spacious nature and openness of the area including the character and appearance of that area connecting King Street Lane and Hatch Farm Way. The development is therefore contrary to all of the relevant policies listed above.

10.0 Summary of negotiations with transgressors

The most relevant negotiations with the transgressors are set out in the Background Information section of this report.

11.0 Cost Benefit Analysis

N/A

12.0 Human Rights and Public Sector Equality Duty

The following articles of the Human Rights Act 1998 are relevant in this case:

Part 1 Article 8 - the right to respect for private and family life, home and personal correspondence.

Part 2 Article 1 of the First Protocol - the right to protection of property, including peaceful enjoyment of possessions.

Both rights could be outweighed when considering the general interest and the rights and freedoms of others, particularly the Council's duty as a Local Planning Authority to uphold the integrity of the planning system. The erection of the fencing as outlined in this report is of small scale and unobtrusive and any harm to the area is minimal.

Equality: Section 149 of the Equality Act 2010 imposes a general public sector equality duty upon local authorities in the following terms:

"(1) – A public authority must, in the exercise of its functions, have due regard to the need to:

eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

foster good relations between persons who share a relevant protected characteristic and persons who do not share it. "

It is therefore necessary for the authority, in consideration of this report, as with consideration of any other proposal, to ensure that the above requirements have been met. There are no equality issues arising from taking enforcement action against the unlawful development, as the requirement in the proposed enforcement notice is to cease the residential use of the land and subsequently remove the operational development from the land and restore it to its original condition.

13.0 Proportionality

The Council believes it is acting in a fair and reasonable manner as it has tried informally to resolve the breach of planning control through negotiation however this course of action has failed. All other forms of action to secure compliance with planning control and uphold council planning policies have been considered and cannot effectively be achieved by any lesser means than those recommended below.

The ‘tool to assist with assessing harm’ contained in **Appendix 1** of the Local Planning Enforcement Plan is attached which scores 4; whilst a score of 5 is generally the minimum threshold that indicates that enforcement action should be taken, this is only based on the guidance within the Local Planning Enforcement Plan. In this instance, it is clear that the unauthorised development is contrary to the development plan, and the harm caused is sufficient justification to warrant enforcement action being taken.

Furthermore, Paragraph 60 of the NPPF states that ‘effective enforcement is important to maintain public confidence within the planning system’. In this case it is considered expedient, as per the reasons outlined in this report, to overcome the harm and to prevent the escalation of such developments in this locality and in general.

The Planning Practice Guidance (ref: 17b-005-2014030) states that effective enforcement is important to:

- Tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
- Maintain the integrity of the decision-making process;
- Help ensure that public acceptance of the decision-making process is maintained.

There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. The potential impacts have been outlined in the above report. The criteria in bullet points 2 and 3 are key in this case to maintaining public confidence in the system.

The proposed enforcement action is being taken against the unauthorised the material change of use of amenity land to residential and the erection of associated fencing that causes adverse harm to the character of the area and fails to maintain the quality of the environment. It is clearly necessary and proportionate to take action to preserve the environment and consequently in the public interest to do so.

In this case it is expedient to take action for the reasons outlined in this report to maintain the quality of the environment and to prevent the escalation of such developments on site, or at neighbouring properties (see **Appendix 1**).

14.0 Recommendation

It is recommended that an enforcement notice is issued for the reason raised above, outlined in **Appendix 2**.

Signed: 

Dated: 4th February 2026
Report Author: Kieran Neumann

APPENDIX 1 - Tool to assist with assessing harm

			Score
1	Is the breach:	Worsening? (1) Stable? (0)	0
2	Highway safety issue	Yes? (2) No? (0)	0
3	Other safety issue (not covered by other legislation)	Yes? (2) No? (0)	0
4	Is it causing serious or irreversible harm to the environment or surrounding area	Yes – Widespread? (2) Yes – Local? (1) None? (0)	1
5	Age of breach	Within 6 months of immunity? (2) Less than 3 months old? (1) More than 3 months old? (0)	0
6	Planning policy breach	Yes? (1) No? (0)	1 (see main planning issues above)
7	Flood risk	Zone 3 (2) Zones 2 (1) Zone 1 (0)	0
8	Breach of planning condition or Article 4 direction	Yes? (1) No? (0)	1 (condition 7 of consent 060468)
9	Conservation Area or adjacent to	Yes? (1) No? (0)	0
10	Listed Building or affecting character or setting of / Registered Listed Park and Garden or other adjacent sensitive site	Yes?(1) No? (0)	0
11	Particularly sensitive site e.g. SSSI, AONB, Scheduled Ancient Monument, Listed Garden, Archaeological Importance	Yes? (1) No? (0)	0
12	Affecting TPO trees/Ancient Woodland/Ancient or Veteran Trees	Yes? (2) No? (0)	0

13	Undesirable precedent	Yes? (1) No? (0)	1 (see main planning issues above)
		Total	4

APPENDIX 2 - RFS/2025/090951 Enforcement Notice

See attachment.