

**REPORT OF THE STRATEGIC DIRECTOR
TO THE DEVELOPMENT CONTROL COMMITTEE
21st April 2008**

Enforcement Programme

1.0 Introduction and Report Summary

1.1 This report seeks the approval of Committee to take enforcement action in two new cases.

1.2 *The contact Officer for this report is Paul Yaxley, Enforcement Officer (01235 540352). paul.yaxley@whitehorsedc.co.uk.*

2.0 Recommendations

- 1 *That authority be delegated to the Deputy Director (Planning and Community Strategy) in consultation with the Committee Chair and/or Vice Chair, to take enforcement action against Mr G. Wright and Mrs J. Wright of 1 Mackenzie Ave. Milton Heights, in regard to land to the west of The George & Dragon Public House, Upton. UPT/17983/2-E and to remove the unauthorised development, including the two steel shipping containers, from this land, if he considers it expedient to do so.*

- 2 *That authority be delegated to the Deputy Director (Planning and Community Strategy) in consultation with the Committee Chair and/or Vice Chair, to take enforcement action against Mr L. Wells of Mather House, White Road, East Hendred, Wantage, OX12 8JG, EHE/16146/2, to remove the unauthorised extension at Mather House, if he considers it expedient to do so.*

3.0 Relationship with the Council's Vision, Strategies and Policies

3.1 The content of this report is in line with objectives A, C and D of the Council's Vision Statement.

3.2 This report relates to Enforcement Strategies 13, 14, 15 and 16 and complies with Enforcement Policies E2 and E3.

4.0 Background Papers

4.1 Application numbers; UPT/9880/2, 3E & 4E, UPT/17983/1 & 2-E, EHE/16146/2.

5.0 Mr Kent & land to the west of The George & Dragon Public House, Upton. UPT/9880/3-E.

5.1 As this site (Location Plan attached as **Appendix 1**), in the North Wessex ANOB, has a complex planning enforcement history it may be helpful to Committee to first summarise it. Following a complaint from a local resident on the 1st July 2002 authority was obtained to take enforcement action, and on 25th July 2002 Stop and

Enforcement Notices (UPT/9880/3-E) were issued to stop the construction of a large building and requiring reinstatement of the land. An appeal was subsequently dismissed and the Notice was fully complied with by the 17th December 2003. A second Enforcement Notice (UPT/17983/2-E) was issued on the 16th November 2004, which required the removal of a steel framed and clad sectional building along with all non agricultural items. During a site meeting on the 7th November 2005 with the Area Planning Officer, the Council's Solicitor and the Enforcement Officer, it was agreed with the owners that the requirements of this, second, Enforcement Notice had been fully complied with.

- 5.2 During the 7th November 2005 site meeting it was also agreed that a shipping container could be temporarily sited on the land and that if there was any evidence to suggest that the siting of the container was to be anything other than temporary, consideration would be given to serving a third Enforcement Notice. The other buildings, sheds, hen houses etc were then (and still are) considered to be chattels, and not development which would require planning permission. Fences and gates are permitted development up to 2m high when not adjacent to a highway and in this case, the increased height of a chicken enclosure was not considered harmful. At that time the storage of agricultural machinery and materials on site was considered to be ancillary, and the grazing of the horses incidental, to a primary agricultural use.
- 5.3 The owner of the land Mr Kent had been allowed under Permitted Development allowances to position the first container on the land while he undertook development works to his bungalow nearby. This work was completed and the bungalow subsequently sold last year. A second, albeit smaller, shipping container was brought on to the site and positioned next to the other shipping container early last year.
- 5.4 Mr Kent has now moved out of the area but retains ownership of this land. The Enforcement Officer continues to visit and monitor the site and has spoken to the new tenants/occupiers of the land, Mr & Mrs Wright, on several occasions. They were asked to provide a statement of their intentions/intended use of the land, and in particular the two shipping containers, as recent allegations suggest that they may only be using the land as a hobby/interest and for very little agricultural use/purpose. To date they have not done so. They allege Mr Kent had originally given them an assurance that he would be removing the larger container and taking it to his new venture, out of the Vale area, however this may no longer be the case.
- 5.5 It is now considered expedient, therefore, to take enforcement action to secure the removal of both shipping containers and, following a site review, any other unauthorised development, and/or cease any unauthorised uses that may be on site that are not covered in paragraph 5.2 of this report.

6.0 Mr L. Wells, Mather House, White Road, East Hendred, OX12 8JG. EHE/16146/2

- 6.1 Officers were made aware by East Hendred Parish Council 4th September 2007 that a single storey extension to the rear, and east, of Mather House, was not being constructed in accordance with approved plans, Notice of Permission No EHE/16146/2 (Ground Floor Extension for a Swimming Pool enclosure and conservatory), permitted 28th January 2003 (Location Plan and approved elevations attached as **Appendix 2**).
- 6.2 Officers made a site visit on the 26th October 2007 which confirmed that instead of a single storey swimming pool extension a two storey extension with numerous internal walls/rooms, and a layout which suggested it may be intended to be used as a guest house, was under construction. The extension as built bears little resemblance to the approved plan, other than having a similar footprint. During the site visit the owner, Mr

Wells, was advised to cease all operations and submit a retrospective planning application. Letters have subsequently been sent to Mr Wells requesting he submit a retrospective planning application to try and regularise the situation but, despite verbal assurances from Mr Wells that an application would be submitted, to date, one has not been made. On the 25th January 08 an Enforcement Officer had a meeting with Mr Wells again advising verbally that authority to take enforcement action would be sought from Committee should he fail to submit his application by 1st March 2008.

6.3 Therefore it is now considered expedient to take enforcement action to cease any unauthorised use of the extension and to secure its removal.

Authority was given (under this Council's Scheme of Delegation) by the Deputy Director in consultation with the Chair of Committee, on the 28th February 2008, to issue a Planning Contravention Notice to cover a possible breach of planning control and a notice is currently in the process of being prepared/drafted.

6.4 This recommendation for authorisation to take enforcement action could, if implemented, amount to an interference with Mr Wells's right to respect for his home under Article 8 of the European Convention on Human Rights, and possibly those of any guests/tenants and employees who may live in, or make use of the extension. The current structure as built has a higher eaves level and double pitched roof making it significantly bulkier than the approved building. As a result the building would be extremely prominent from the wider landscape and would not conserve or enhance the character of the Area of Outstanding Natural Beauty in which the site lies. As such the development is contrary to Policy EN1 of the adopted Oxfordshire Structure Plan and Policies NE6 and DC1 of the adopted Vale of White Horse Local Plan. The internal subdivision of the building suggests its future use as a guest house or hotel. Whilst the adopted Local Plan allows for some guest accommodation within the larger villages of the District including East Hendred, the scale of this building is not considered appropriate for this sensitive rural location. The development is therefore contrary to Policy T1 of the adopted Local Plan. The development also has the potential to significantly increase vehicular movements from a substandard access onto White Road adjacent to its busy junction with the A417, a busy classified road, to the detriment of highway safety. There does not appear to be any special circumstances that would support a continued loss of amenity and outweigh these policies. Therefore this interference is considered to be proportionate to the harm that would be caused if the unauthorised development were allowed to remain. Enforcement action is considered to be justified and in the public interest and safety.

6.4 *It is recommended that authority to take appropriate enforcement action to:-*

- (a) cease any unauthorised use of the extension. and*
- (b) to secure the demolition/removal of the extension and reinstatement of the land, be delegated to the Deputy Director (Planning & Community Strategy) in consultation with the Committee Chair and/or Vice Chair, if in his judgement it is considered expedient to do so.*

RODGER HOOD
DEPUTY DIRECTOR (Planning and Community Strategy)