



# REGULATORY SERVICES COMMITTEE

# REPORT

13 March 2014

**Subject Heading:**

Alleged breach of planning control at 30  
Kimberley Avenue, Romford

**Report Author and contact details:**

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Local Development Framework

**Policy context:**

**Financial summary:**

Enforcement action and a defence of the  
Council's case in any appeal will have  
financial implications.

**The subject matter of this report deals with the following Council Objectives**

|  |                                     |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough   | <input type="checkbox"/>            |
| Championing education and learning for all   | <input type="checkbox"/>            |
| Providing economic, social and cultural activity in thriving towns<br>and villages | <input type="checkbox"/>            |
| Value and enhance the life of our residents  | <input checked="" type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax                     | <input type="checkbox"/>            |

## SUMMARY

This report relates to the unauthorised siting of 2 commercial containers in the rear garden of a residential property at 30 Kimberley Avenue, Romford. The containers do not have planning permission and the breach occurred within the last 4 years. The containers represent a breach of planning control, are considered to be unacceptable by reason of their inappropriate appearance and therefore it is recommended that an enforcement notice be served requiring their removal.

## RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, within 2 months of the date of the notice coming into force:

The removal of the containers from the land.

In the event of non compliance, and if deemed expedient, that proceedings be instituted under the provisions of the Town and Country Planning Act 1990.

## REPORT DETAIL

### 1. Site Description

- 1.1 30 Kimberley Avenue is a 2-storey dwelling at the end of a terrace of 3 properties. The property is on the junction of Kimberley Avenue / Burlington Avenue.

### 2. Relevant Planning and Enforcement History

None

### 3. The Alleged Planning Contravention

- 3.1 Without planning permission, 2 industrial containers have been placed in the rear garden. The siting of commercial containers is considered operational development for which planning permission would be required under Section 171A(1) (a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). No such planning permission has been granted by the local planning authority and therefore the development is unauthorised and therefore a breach of planning control.
- 3.2 It appears that the above breach of planning control has occurred within the last 4 years and is not therefore immune from enforcement action.
- 3.3 Several attempts have been made to contact the owner/occupiers to try to ascertain what the containers are being used for. A Planning Contravention Notice was served in November 2013.. No response has been received, neither have the containers been removed.

### 4. Policy and Other Material Considerations

- 4.1 The relevant policies are Policy DC6 of the LDF Core Strategy and Development Control Policies DPD and SPD Residential Extensions and Alterations.

4.2 The containers can be seen from the street as well as from surrounding properties and gardens. They are not particularly attractive when sited for a long period of time. The development has resulted in physical harm to the appearance of the property in the streetscene and rear garden environment. Due to their size, design and bulk, the development is considered to be an incongruous feature, out of place with its surroundings and detrimental to visual amenity. The Council do not consider that planning permission should be given because planning conditions could not overcome these objections.

5. **Recommendation for action**

5.1 The unauthorised development is an incongruous feature, out of place with its surroundings and is therefore considered detrimental to the local amenity and is not considered acceptable. The impact of this structure on the residential amenity is considerable and could not be made acceptable by conditioning of any planning permission for the structure.

5.2.1 It is therefore necessary to seek authorisation to require the removal of the unauthorised structure and therefore remedy the breach of planning control.

5.2.2 In this case it is considered that 2 months would be a reasonable period to require compliance with the notice.

## IMPLICATIONS AND RISKS

**Financial implications and risks:**

Enforcement action may have financial implications for the Council.

**Legal implications and risks:**

Enforcement action, defence of any appeal and, if required, prosecution procedures will have resource implications for the Legal Services.

**Human Resources implications and risks:**

No implications identified.

**Equalities implications and risks:**

Section 149 of the Equalities Act 2010 (EA) came in to force on 1<sup>st</sup> April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A)(1) of the Sexual Discrimination

Act 1975 (SDA) so that due regard must be had by the decision maker to specified equality issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having considered the above duty and the Human Rights Act 1998 there are no equality or discrimination implications raised.

## **BACKGROUND PAPERS**

- 1. Non-exempt notes and correspondence on case file*
- 2. Aerial Photographs*
- 3. Relevant Planning History*