



# REGULATORY SERVICES COMMITTEE

# REPORT

17 July 2014

**Subject Heading:**

Planning Contravention  
9 Shakespeare Road, Romford

**Report Author and contact details:**

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**Policy context:**

Local Development Framework

**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 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 concerns the construction of an unauthorised area of hardstanding to the front of the property at 9 Shakespeare Road, Romford. The provision of a hard surface for any purpose incidental to the enjoyment of the dwelling is permitted development subject to conditions. This requires that, if the area of the hard surface exceeds 5 meters squared, and if it lies between the dwelling and the

highway, the hard surface shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwelling.

The hard surface to the front of 9 Shakespeare Road fails to comply with permitted development criteria as it exceeds 5 square meters; it is constructed from non-porous material and no provision has been made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwelling.

It is considered that the hard surface results in increased surface water run off to the public highway, increasing risk of flooding and that it would be appropriate to take enforcement action.

## RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require within 3 months of the effective date of the enforcement notice:

- i) To relay the hard surface with porous materials; or
- ii) Provision shall be made to direct runoff water from the hard surface area to a permeable or porous area or surface within the curtilage of the dwelling house; or
- iii) Take up the hard surface
- iv) Remove from the Land all materials, rubble, machinery, apparatus and installations used in connection with or resulting from compliance of (i, ii, iii) above.

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 9 Shakespeare Road, Romford shown outlined bold black on the attached plan (“the Property”) is a 2 storey, end of terrace residential dwelling. The surrounding area comprises of two storey detached and semi-detached dwellings.

### 2. The Alleged Planning Contravention

- 2.1 The formation of a hard surface to the front garden of the Property in the area shown hatched black on the attached plan without complying with

Condition F1 of the Town and Country Planning (General Permitted Development) Order 1995, as amended (“the Hardstanding”).

### **3. Relevant Planning and Enforcement History**

- 3.1 In July 2013 the Local Planning Authority received a complaint that an area of Hardstanding had been constructed to the front of the Property without a soakaway. Officers investigated the complaint and found that the Hardstanding had not been constructed from a porous material and that there was no provision for direct run-off water to be retained within the curtilage of the Property. A letter was sent to the owner of the Property giving notice of the breach of planning control.
- 3.2 After corresponding with the owner on several occasions it became apparent that the necessary works to the Hardstanding would not be carried out.

### **4. Policy and Other Material Considerations**

- 4.1 Article 3 and Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO) provide that, within the curtilage of a dwellinghouse, the provision of a hard surface for any purpose incidental to the enjoyment of the dwelling is permitted development. However, this is subject to Condition F1. The condition requires that, if the area of the hard surface exceeds 5m<sup>2</sup>, and if it lies between the dwelling and the highway, the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the curtilage of the dwellinghouse.
- 4.2 As the unauthorised Hardstanding is not constructed within permitted development criteria it is considered that the development fails to comply with Condition F1 as set out in Part 1 of Schedule 2 to the GPDO.
- 4.3 The main planning issue in this case is the strain on the main drainage system due to the front garden area of the Property being paved. The Government introduced new planning legislation on October 2008 in order to ease the problem of surface run-off water to the highway.
- 4.4 Paragraph 103 of the National Planning Policy Framework states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
- 4.5 Policy DC48 of the Council’s Local Development Frameworks states that development should not increase the risk of flooding elsewhere. Whilst the Hardstanding, in itself, is unlikely to result in direct flooding, the Hardstanding slopes toward the highway and none of the water run-off would be attenuated on site. As a result, the likelihood of flooding through

surface water run-off is increased and is considered this is considered to be contrary to Planning Policy.

5. **Recommendation for action**

- 5.1 The Hardstanding covers almost one third of the entire area of the front garden of the Property the remainder of the front garden is also covered in with a hard surface but this is immune from enforcement action due to the amount of time it has been there. The Hardstanding exceeds 5m<sup>2</sup> in area, and is formed from non-porous materials. The Hardstanding results in an increase in surface water run-off to the highway.
- 5.2 The owner of the Property has had an opportunity to install a soakaway or to make provisions for direct run-off from the Hardstanding to a permeable or porous area within the curtilage of the Property.
- 5.3 To date the development remains unchanged. With that in mind, it is considered that the only course of action available to prevent run off to the public highway with an increased risk of flooding is to serve an Enforcement Notice. The notice will give the owner of the Property the opportunity to alter the Hardstanding to direct run-off to an area within the Property boundaries or to change the surface so it is porous or else remove the Hardstanding.
- 5.4 It is considered that three months is sufficient time to enable compliance with the requirements of the Enforcement 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.

## **BACKGROUND PAPERS**

*Site photographs*