



# REGULATORY SERVICES COMMITTEE

# REPORT

21 August 2014

**Subject Heading:**

Planning Contravention  
30 Elms Close  
Hornchurch

**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 checked="" 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 a residential property at 30 Elms Close Hornchurch. In August 2011 the Planning Enforcement Service received a complaint that an outbuilding had been erected to the rear of the property without the benefit of planning permission. The outbuilding is some 2.7m in height and is within some 10cm of the boundary with 61 Rockingham Avenue Hornchurch. The structure is of brick construction with a dummy pitched roof.

The unauthorised development is considered to be unacceptable by its design and height and appears unsightly to neighbouring properties, in particular 61 Rockingham Avenue ,and therefore it is requested that authority be given to issue and serve Enforcement Notices to seek to remedy the breach.

## 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 notice the following:

- (1) The height of the building hatched black on the plan attached must be reduced to 2.5metres.*
- (2) Remove from the Land at 30 Elms Close, Hornchurch, all rubble and waste Material resulting from compliance with (1) 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 30 Elms Close Hornchurch shown outlined bold black on the attached plan is a detached house in a residential street with residential curtilage ("the Land").The Land has a rear garden.
- 1.2. In the rear of the garden of the Land is an outbuilding, the subject of this Report.
- 1.3 The outbuilding is approximately 2.7 meters in height and is within approximately 10cm of the boundary with 61 Rockingham Avenue. It is constructed of grey block work and brick. The front view of the outbuilding, facing the main property, shows a brick facia and tiled dummy pitch roof. The view from the rear elevation shows unrendered grey blocks with an open dummy hipped pitch roof which is open on three sides which partially screens a large flat roof.
- 1.4 The location of the outbuilding is shown hatched black on the attached plan.

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

- 2.1 P 0406.08 (erection of 44 detached, semi- detached and terrace houses and associated access) –approved 05/06/08.
- 2.2 No Enforcement history.

## 3. **The Alleged Planning Contravention**

- 3.1 Without planning permission, the erection of an outbuilding in the rear garden. The alleged breach has occurred in the last 4 years.

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

- 4.1 The unauthorised erection of an outbuilding within the rear garden of 30 Elms Close, Hornchurch is considered to be unacceptable in its design and height and appears unsightly ,by its design and materials used ,to neighbouring properties in particular 61 Rockingham Avenue. The outbuilding is 2.7m in height and is within approximately 10cm of the boundary fence of 61 Rockingham Avenue.
- 4.2 It is considered that the development is contrary to Policies, DC61 and the supplementary planning document for residential extensions and alterations of the Local Development Plan.
- 4.3 Negotiations have taken place with the owner of the property however a the roof has not been reduced in height or has a valid planning application been submitted.

## 5. **Recommendation for action**

- 5.1 The issue is whether it is expedient for the Council to serve a Planning Enforcement Notice having regard to the impact and nature of the unauthorised development. The relevant policies of the LDF are policy DC 61 (urban design)and the supplementary planning document for extensions and alterations.
- 5.2 Policy DC61 seeks to ensure that all development is compatible with its surrounding environment. In this case it is considered that the unauthorised development is unacceptable by its height and design which has impact on and prejudices the living conditions of neighbouring occupiers
- 5.3 Overall, the development requires a reduction in height which would then Comply with “permitted development” of outbuildings

- 5.4 Based on the information in this report it is judged that planning conditions cannot mitigate the adverse consequences of the breach. In these circumstances, it is considered expedient to take enforcement action and to serve a 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 consider the above duty and the Human Rights Act 1998 there are no equality or discrimination implications raised

## BACKGROUND PAPERS

1. *Ordnance survey extracts showing site and surroundings.*