



REGULATORY SERVICES COMMITTEE

REPORT

17 November 2011

Subject Heading:

Alleged breach of planning control at
Cranham Hall Farm, The Chase,
Upminster

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

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The property, Cranham Hall Farm, originally consisted of redundant farm buildings. In December 2007 planning permission was granted with conditions (P1707.07) for the conversion of existing barns into 8 new dwellings plus 2 new separate dwellings. This is now known as Cranham Hall Mews and residential units are now occupied.

In October 2008, the authority received a complaint regarding paddocks being created to the rear and side of the development. The developer sold open farmland adjacent to the residential units which has now been divided into separate plots by the erection of fences. These parcels of land have been brought into use as amenity space for residential properties.

Further complaints were made in August 2010 that two of the properties have erected outbuildings within these parcels of land.

The properties are within the Metropolitan Green Belt and the Cranham Conservation Area where an Article 4 Direction removes 'permitted development rights' for the erection of fencing.

There is also a condition attached to planning consent P1707.07 removing 'permitted development rights' for outbuildings. It is considered that the unauthorised development has a materially harmful impact on the Metropolitan Green Belt and the Cranham Conservation Area.

The developments have occurred within the last 4 years and therefore it is requested that authority be given to issue and serve Enforcement Notices to seek to remedy the breaches.

RECOMMENDATIONS

That the Committee consider it expedient that the Enforcement Notices be issued and served to require within two months:

- i) To stop using the land for residential purposes.
- ii) To remove from the land all structures, fencing other than those that have planning approval.
- iii) To remove from the land all unauthorised outbuildings.
- iv) To remove from the land all machinery, equipment, apparatus, tools, scrap and waste brought onto the land associated with the unauthorised use and to comply with requirements within (i) and (ii) 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 Cranham Hall Farm, The Chase, Upminster is a former farm which was made up of a cluster of farm buildings including barns.
- 1.2 Open farmland and public footpaths are adjacent to the site.
- 1.3 It is alleged that the following five properties are breaching the Town and Country Planning Act 1990 and are using the land outside their residential curtilage.
- i) Reeds, 6 Cranham Hall Mews (outbuilding and fencing).
 - ii) Granary, 7 Cranham Hall Mews (fencing).
 - iii) Millhouse, 8 Cranham Hall Mews (outbuilding and fencing).
 - iv) Dovecote, 9 Cranham Hall Mews (fencing).
 - v) Rookery, 10 Cranham Hall Mews (fencing).

2. **Alleged Planning Contravention**

- 2.1 Without planning permission the erection of fencing. This applies to all the above five properties.
- 2.2 Without planning permission using pasture land outside the residential curtilage for residential use.
- 2.3 In addition, without planning permission outbuildings have been erected within the fenced area of Reeds, 6 Cranham Hall Mews and Millhouse, 8 Cranham Hall Mews. The outbuildings are within the residential curtilage.

3. **Relevant Planning History**

P0784.07	Conversion of barns to 8 dwellings	Withdrawn by applicant
P1707.07	Conversion of barns to 8 dwellings	Approved - 3.12.07
P2011.08	Retention of doors and windows	Withdrawn
P2029.08	Change of use of land to form paddocks and associated fencing	Refused 23.3.09
P0238.09	Retention of doors and windows	Refused 22.5.09
P1618.09	Retention of doors and windows	Approved 15.1.10

P0779.10 Retention of replacement post and rail fencing Approved 27.8.10

P0496.11 Retention of boundary fence, internal fence and outbuilding (8 Cranham Hall Mews only) Refused 11.10.11

4. **Enforcement Background**

4.1 In October 2008 the Authority received a complaint that fencing had been erected around the perimeter of the site.

4.2 Following this complaint officers from the Planning Enforcement Service visited the site.

4.3 Officers saw that fencing had been erected to the perimeter of the site thereby creating paddocks and gardens.

4.4 The Authority made numerous attempts through the developer to have the fencing removed. Planning applications were submitted and refused. A subsequent application (P0779.10) allowed fencing on part of the site only.

4.5 The developers began to sell the site as separate plots and failed to remove the unauthorised fence.

4.6 The Planning Enforcement Team had little choice than to make contact with the relevant purchasers to remedy the breaches.

4.7 In August 2010 further complaints were received alleging that outbuildings had been erected on part of the site.

4.8 Officers visited the site and saw that outbuildings had been constructed on land adjacent to The Reeds, 6 Cranham Hall Mews and Millhouse, 8 Cranham Hall Mews.

4.9 Contact was made with the owners of the property and a planning application (P0496.11) for Millhouse, 8 Cranham Hall Mews (only) was submitted and subsequently refused.

4.10 The planning breaches regarding the fencing and the outbuildings remain.

5. **Material Consideration of the Use or Development**

5.1 The issue is whether it is expedient for this council to serve a Planning Enforcement Notice having regard to the nature and impact of the unauthorised development.

5.2 The relevant policies are DC22, DC45, DC47, DC61 and DC68 of the LDF Development Control Policies Development Plan Document, Cranham Conservation Area Character Appraisal and Management Proposals London

Plan Policies 7.8 and 7.16, PPG2 - Green Belt and PPS5 planning for historic environment.

6. **Justification for Intended Action**

6.1 The issues arising in this case are the principles of the development, impact upon the character, appearance and openness of the Green Belt and the Cranham Conservation Area.

6.2 As mentioned previously in the report a retrospective planning application (P2029.08) has been refused for the formation of the paddock fencing on the land to the west and south of Cranham Hall Mews.

6.3 This application was refused for the following two reasons:

a) The paddock fencing, by reason of its extent, appearance and siting would appear materially harmful to the special character and appearance of the Cranham Conservation Area contrary to Policy DC68 of the LDF Development Control Policies Development Plan Document.

b) The subdivision of the land into small plots results in encroachment into the countryside and is therefore considered to be inappropriate development in Green Belt. No very special circumstances have been submitted in this case and the proposal is therefore contrary to Policy DC45 of the LDF Development Control Policies Development Plan Document and the provisions of PPG2 (Green Belts).

6.4 A further retrospective planning application (P0496.11) was submitted by the owner of Millhouse, 8 Cranham Hall Mews for retention of boundary fence, internal fence and outbuilding.

6.5 This was refused for the following reasons:

1. The fencing, by reason of its extent, appearance and siting, appears materially harmful to the special character and appearance of the Cranham Conservation Area contrary to Policy DC68 of the LDF Development Control Policies Development Plan Document.

2. The timber outbuilding and the subdivision of the land into a small plot results in encroachment into the countryside and is therefore considered to be inappropriate development in the Green Belt. No very special circumstances have been submitted in this case and the proposal is therefore contrary to Policy DC45 of the LDF Development Control Policies Development Plan Document and the provisions of PPG2 (Green Belts).

6.6 Green Belt Implications

At the time when planning permission was granted for the conversion of the former farm buildings to residential use several external doorways were approved to afford direct access onto the adjoining farmland. In the case of plots 6, 7 and 8 these properties were approved with a perimeter boundary fence enclosing small garden areas and providing segregation with the adjoining farmland. This perimeter fence has never been installed resulting in there being no clear delineation between what is residential curtilage and what is farmland. The lack of a boundary fence around the perimeter of the development at this point combined with the provision of fencing to segregate the farmland into small parcels gives the impression that portions of the farmland are residential curtilage. Indeed at the time of staff's site visit a number of the plots had residential paraphernalia sited within the farmland including a trampoline and football goal posts. Whilst staff can understand the wish of occupiers of the Cranham Hall Mews development to delineate land within their ownership, the land is farmland, which is, designated Green Belt. To this end consideration must be given to the provisions of PPG2 and the need to maintain openness and to prevent urban sprawl.

- 6.7 The provision of fencing within the Green Belt is not in itself unacceptable in principle however in this case the fencing affectively facilitates the use of the land for residential purposes. The concern is that the land will be perceived as a garden area given its fenced nature and direct access from the rear of the dwelling. Were planning permission to be granted for the retention of the fencing it would be difficult for the Council to monitor its future use. For example, it is considered that the potential exists for future occupiers to provide garden related paraphernalia such as flower beds, patios, BBQs etc. The use of the land as a residential garden would represent inappropriate development in the Green Belt. In granting planning permission for the conversion of the former farm buildings to residential use the residential curtilage was carefully considered to specifically exclude the adjoining land outside the quadrangle of buildings.
- 6.8 Paragraph 3.12 of PPG2 advises that the statutory definition of development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. The fencing of the farmland in the manner which has taken place and use for residential purposes which in principle is not acceptable in the Green Belt. Staff consider the retention of the fencing to be materially harmful and that it conflicts with the purposes of including land in the Green Belt – a stated purpose of the Green Belt is to prevent encroachment into the countryside. In view of the above it is considered that the fencing represents inappropriate development in the Green Belt contrary to PPG2.
- 6.9 Outbuildings have been constructed at the south side of Reeds, 6 Cranham Hall Mews and to the rear of Millhouse, 8 Cranham Hall Mews. Any form of outbuilding requires planning permission as permitted development rights

were removed by planning permission was granted for the original conversion.

6.10 Within the Green Belt outbuildings can be considered as appropriate where they are reasonably related in terms of siting to the dwelling. The outbuildings are however sited outside of the building envelope formed by the quadrangle of buildings. As mentioned above permitted development rights were specifically removed when planning permission was granted for the conversion of the former farm buildings. The reason behind this is to ensure that no outbuildings or structures can be provided either within or outside of the building envelope without planning permission. Given the location of the outbuildings are outside of the building envelope, staff are of the view that appear as a form of encroachment into the Green Belt. Staff are of the view that the outbuildings are an inappropriate form of development and being outside the building envelope of the former farm buildings is harmful to the openness of the Green Belt.

6.11 Conservation Area Implications

The application site is located in the Cranham Conservation Area and as such, the general consideration is whether the character and appearance of the Conservation Area is preserved or enhanced. An Article 4 Direction covers the Cranham Conservation Area of which the application site forms part. This Direction removes Permitted Development rights for the erection of any form of fencing or other means of enclosure including gates on all land in the Conservation Area in order to maintain the open character of the area.

6.12 The Cranham Conservation Area was one of the first conservation areas to be designated in Havering. The Cranham Conservation Area Character Appraisal and Management Proposals advise that the character of the area derives from a group of buildings and trees set in open countryside. Staff are of the view that the fencing for which permission is being sought combined with the existing fencing on site detracts from the open nature of the Conservation Area. The site is visible from a wide area given the relatively flat nature of the land and the limited screening surrounding the site. A number of public footpaths also cross the Conservation Area including one which passes adjacent to the site, as such the fencing has the potential to be seen by a large number of people. It is considered that the continued retention of the fencing is harmful to the special character and appearance of the Cranham Conservation Area contrary to Policy DC68 of the LDF and Policy 7.8 of the London Plan.

6.13 The timber outbuildings and the subdivision of the land into small plots results in encroachment into the countryside and is therefore considered to be inappropriate development in the metropolitan Green Belt. No special circumstances have been identified in these cases and is contrary to Policy DC45 of the LDF Development Control Policies Development Plan Document and the provision of PPG2 (Green Belt).

6.14 For the reasons set out above it is considered that the fencing and outbuildings be removed and that residential use of the site be confined to the curtilage of the property and that this can be only achieved by the Council serving an Enforcement Notice and therefore Members are asked to recommend as such.

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 Legal Services.

Human Resources implications and risks:

No implications identified.

Equalities implications and risks:

No implications identified.

BACKGROUND PAPERS

1. Ordnance survey extracts showing site and surroundings.