

TOWNS AND COMMUNITIES OVERVIEW AND SCRUTINY SUB-COMMITTEE

Subject Heading:

Update: 2 metre high front walls and appeal decision.

CMT Lead:

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Policy context:

National Planning Policy Framework
National Planning Practice Guidance
Havering Local Development Framework

SUMMARY

Following the resolution of the Full Council, this sub-committee is asked to review again the issue of walls which have been erected at the front of a property in the Borough and any action that could be taken as a consequence.

The Council has been successful at appeal in confirming that the walls, due to their height and position do need planning permission. Further legal advice has confirmed that the whole length of the wall is unauthorised and that consideration can be given to enforcement action requiring the whole wall to be reduced in height.

RECOMMENDATIONS

That the update report be noted and that, in accordance with the latest legal advice received, the lowering of the whole length of the walls to an acceptable height be sought, with formal enforcement action being taken if necessary.

REPORT DETAIL

1.0 Background

- 1.1 At the Full Council meeting on 22nd March 2017, following a motion on behalf of the Independent Residents Group, the following resolution was agreed:

This Council requests the Town and Communities O & S sub-committee to review again the case involving 2 metre high front walls referred to it on 25 November 2015 in the light of the subsequent appeal decision (Planning Inspectorate APP/B5480/X/16/3152643) and updated legal advice received.

- 1.2 The motion and subsequent resolution stems from two brick walls erected along the side boundaries of the front garden of a terraced house in Rainham. The walls are up to 2 metres in height next to the house and its neighbours and reduces in height to the highway.
- 1.3 The purpose of this report is to provide an update to the case and next actions.

2.0 Update to the Case

- 2.1 The owners of the property submitted a lawful development certificate claiming that the walls did not need planning permission. The Council sought legal advice which, in summary, was that if the walls posed a danger to highway users then the walls would not be permitted development. Furthermore, the advice was that any enforcement action should only seek to address the harm caused and only that part of the wall causing obstruction could be required to be removed.
- 2.2 The Council refused the certificate application which the owners appealed against. The appeal was dismissed with the Inspector concluding that the walls did represent a danger to highway users and therefore were not lawful.
- 2.3 Subsequent to the appeal decision, a further legal opinion has been sought in regard to the enforcement position in the light of the appeal decision. The legal view has now changed in that as the Inspector found that the walls, for their whole length, posed a danger, the Council can require that the whole length be reduced. The owners have been advised to lower the whole length of the walls in order to avoid enforcement action.
- 2.4 The owners have been advised to lower the wall, but presently are disputing this due to the earlier advice received (since updated by most recent legal advice). If the matter cannot be resolved by negotiation, an enforcement notice will be served requiring the walls to be reduced along their whole length.

3.0 Conclusion and Recommendation

- 3.1 In accordance with the latest legal advice received, officers have contacted the owner and informed them that the lowering of the whole length of the

walls needs to be undertaken. If the required works are not carried out voluntarily, formal enforcement action will be necessary.

IMPLICATIONS AND RISKS

As is an update report, there are no new implications or risks to consider.

BACKGROUND PAPERS

Town and Country Planning (General Permitted Development)(England) Order 2015

Local Development Framework

National Planning Policy Framework

National Planning Practice Guidance