



REGULATORY SERVICES COMMITTEE

REPORT

21 June 2012

Subject Heading:

**Planning Contravention
2-8 Upminster Road South, Rainham**

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 and villages	<input checked="" 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 an unauthorised building within the rear garden of a Listed Building which is located within the boundaries of Rainham Village Conservation area. The building does not benefit from Listed Building Consent or planning permission. The building detracts from the setting of the listed building and, in particular, from public views available within the curtilage of the listed Rainham Hall.

RECOMMENDATIONS

That the committee consider it expedient that an Enforcement Notice be issued and served to require, within 3 months:

1. Remove the unauthorised outbuilding;
2. Remove all resultant debris associated with compliance with 1 above, the removal of the unauthorised outbuilding 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 The site is located to the southern side of Upminster Road South, which falls within the boundaries of the Rainham Village Conservation area. The site adjoins the eastern boundary of St Helens and St Giles churchyard and Rainham Hall which is a three storey merchant's house, built in 1729, and Grade II * Listed (designated 1955).
- 1.2 The site currently accommodates a two storey Grade II Listed Building comprising a shop on the ground floor with residential use above. The buildings at no's 2-8 originally formed a small group of cottages which are now in joint ownership. The surrounding area is a mixture of commercial and residential uses.

2. The Alleged Planning Contravention

- 2.1 On 17 December 2009 the Planning Enforcement service received a complaint that an outbuilding has been constructed within the curtilage of a listed building, along the side boundary with Rainham Hall. The building is a prefabricated building with a pitched felt roof and is used for storage purposes.
- 2.2 Outbuildings subject to meeting all of the relevant criteria and conditions generally benefit from permitted development rights if they are located within the curtilage of a residential property however as the building is located within a mixed use property (residential on first floor and commercial on ground floor) and because the building is located within the curtilage of a Listed Building, the building requires planning permission.

- 2.3 The owner was advised that failure to obtain planning permission is a breach of planning control which could be liable to enforcement action. The owner advised that the building is only temporary and will be removed from the site within a few months.
- 2.4 Given that this has become protracted and that the building detracts from the setting of the listed buildings, and particular, from public views available within the curtilage of the listed Rainham Hall it has been deemed expedient that enforcement action be commenced.

3. **Relevant Planning History**

3.1

ES/HOR685/63	House	Refused
513/64	Additions	Approved
L/HAV/250/65	Garage	Refused
L/HAV/1384/69	Development for shops and living accommodation and storage over	Refused
L/HAV/764/83	Change use to offices and shopfront alterations	Approved
L/HAV/792/83	Renovation and reinstatement of original façade. Alterations and extensions	Approved
L/HAV/765/84	Vary use condition from estate agency/building society agency to insurance brokers/building society agents	Approved
A/90/84	Shop sign	Refused
P1355.08	Change of elevational treatment to facade of building from render to weather boarding. Modern casement windows replaced with traditional sash arrangement. New metal gate to passage between dwellings. Reform windows on west elevation with blind windows and new subcills. New shopfront.	Approved

L0008.08	Listed Building consent for change of elevational treatment to facade of building from render to weather boarding. Modern casement windows replaced with traditional sash arrangement. New metal gate to passage between dwellings. Reform windows on west elevation with blind windows and new subcills. New shopfront	Approved
A0058.08	Change of design of sign and fascia	Grant express consent
Q0046.09	Discharge of conditions 3 and 4 of P1355.08	Discharged

4. **Enforcement background**

- 4.1 December 2009 - Outbuilding within the curtilage of a Listed Building – ongoing

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

- 5.1 The site accommodates a two storey Grade II Listed Building and is located within Rainham Village Conservation area. National Planning Policy Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional.
- 5.2 Policy DC67 of the Local Development Framework states that planning permission involving Listed Buildings or their setting will only be allowed where it does not adversely affect a Listed Building or its setting.
- 5.3 Policy DC68 of the Local Development Framework states that the character or appearance of Conservation Areas will be preserved or enhanced. Planning permission for development within a Conservation Area will only be granted where it preserves or enhances the character and appearance of the Conservation Area and is well designed.
- 5.4 Policy DC61 of the Local Development Framework states that planning permission will only be granted for development which maintains, enhances

or improves the character and appearance of the local area. Development must therefore complements or improves the amenity and character of the area through its appearance, materials used, layout and integration with surrounding land and buildings.

6. **Justification for Intended Action**

- 6.1 The issue is whether it is expedient for this Council to serve a planning Enforcement Notice having regard to the impact of this unauthorised building on the setting of the listed building and particular the listed Rainham Hall.
- 6.2 The building, which has a depth in excess of 10 metres, is constructed with a 3.5 metre pitch roof covered in felt. The building is a prefabricated type building and is used for storage purposes.
- 6.3 The siting of the building on the boundary with Rainham Hall, especially the depth of the building, the height of the pitch roof and the nature of the materials (felt roof), detract from the setting of the Listed Building on site, and in particular from public views available within the curtilage of the listed Rainham Hall.
- 6.4 Policy DC67 of the Local Development Framework states that planning permission involving Listed Buildings or their setting will only be allowed where it does not adversely affect a Listed Building or its setting. As the building detracts from the setting of listed buildings it is considered that it is that planning permission would be refused for its retention.
- 6.5 As the building can not be altered to make it more acceptable, it is considered that the building should be demolished in its entirety. Given the prefabricated nature of the building it is considered that 3 months is sufficient time to dismantle and remove the materials resulting from compliance from the land.

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:

No implications identified.

BACKGROUND PAPERS

None