



REGULATORY SERVICES COMMITTEE

REPORT

19 July 2012

Subject Heading:

Planning Contravention
Ashlea View, Tomkyns Lane

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 relates to an unauthorised metal gate and close boarded wooden fence within the Metropolitan Green Belt. The development does not benefit from planning permission. The development is inappropriate in the Green Belt and detrimentally effect on the openness, character and visual amenities of the Green Belt. There are no other material considerations that would clearly outweigh the harm resulting from these issues and thus justify the development on the basis of very special circumstances.

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:

1. Remove the unauthorised metal gates and wooden close boarded fence;
2. Remove all resultant debris associated with the removal of the unauthorised gate and fencing from the premises;

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 occupied by residential mobile homes and is located on the eastern side of Tomkyns Lane and is within the Metropolitan Green Belt. The residential part of the site consists of an area of hardstanding with three caravans for residential occupation and storage for a fourth caravan. The access to the site is via an access driveway from Tomkyns Lane where the metal gates and close boarded fence are located.
- 1.2 The surrounding area is within the Green Belt and along Tomkyns Lane is mainly comprised of well separated detached residential properties to road frontages with many having commercial uses (agricultural/farming) on the remainder of the land in the plot. To the north and east of the site are mainly open fields although there are further frontage residential properties to Warley Lane to the north-east of the site.

2. **The Alleged Planning Contravention**

- 2.1 In August 2010 the Planning Enforcement service received a complaint that a metal gate and close boarding fence has been constructed without planning permission.
- 2.2 Under Part 2, Class A, Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) fences and gates up to 2m high could be constructed as permitted development provided it was not positioned adjacent to a public highway. As the gate and fence fail to

comply with the permitted development regulations, the development requires consent.

2.3 The owner was advised that failure to obtain planning permission is a breach of planning law which could be liable to enforcement action.

2.4 Given that this has become protracted and that the development is inappropriate in the Green Belt and detrimentally effect on the openness, character and visual amenities of the Green Belt it has been deemed expedient that enforcement action be commenced.

3. **Relevant Planning History**

3.1 P0916.97 Change of use from agriculture to residential and retention of mobile home and a touring caravan – Refused – Allowed on appeal for temporary period of five years.

P0820.03 Change of use from agricultural to residential and retention of one mobile home and a touring caravan – Refused – Allowed on appeal for temporary period of three years.

P0185.08 Retention of one mobile home plus caravan – Refused

P1115.08 Retention of mobile home, static caravan and touring caravan – Granted for 2-year temporary consent.

P1705.10 Stationing of three caravans for residential occupation by Gypsy family and storage fourth caravan.

4. **Enforcement background**

4.1 Various enforcement investigations with regards to siting of mobile homes and residential caravans. No enforcement notices served.

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

5.1 The site is located within the Metropolitan Green Belt. National Planning Policy Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

5.2 Policy DC45 (Appropriate Development in the Green Belt) of the Local Development Framework and Policy CP14 (Green Belt) set out the criteria for development located within the Metropolitan Green Belt.

- 5.3 Policy CP17 (Design) of the Local Development Framework amongst other things, states that the appearance, safety and accessibility of Havering will be maintained and, where possible, enhanced by requiring new development to maintain or improve the character and appearance of the local area in its scale and design.
- 5.4 Policy DC61 (Design) 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.

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 development on the openness, character and visual amenities of the Green Belt.
- 6.2 It is an aim of Green Belt policy to keep land open in the context that it is free of development. It is considered that the height, position and materials appears out of keeping in this largely rural environment and detracts from the character and appearance of the surrounding area. The development has a material impact on the openness of the green belt and the close boarded nature of the fence restrict views onto the open green belt.
- 6.3 The need to secure the site and the fallback position to construct a 1m high fence under permitted development has been taken into account to determine whether to pursue this case however it is considered that substantial weight should be given to the harm to the Green Belt in this case. It is considered that the harm by reason of inappropriateness, and the impact on character and visual harm that arise from this development can not be outweighed by security or any other material considerations.
- 6.4 Given the harm to the Green Belt it is considered that the gates and fence should be removed in its entirety within 3 months from the effective date 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:

No implications identified.

BACKGROUND PAPERS

None