



# REGULATORY SERVICES COMMITTEE

# REPORT

12 September 2013

**Subject Heading:**

Planning Contravention at  
Rear of 39 Collier Row Lane

**Report Author and contact details:**

Simon Thelwell  
Projects and Regulation Manager  
01708 432685  
simon.thelwell@havering.gov.uk

**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**

|  |                                     |
|--|-------------------------------------|
| 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<br>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 an outbuilding that lies to the rear of No. 39 Collier Row Lane, a two storey property with a betting shop on the ground floor and a residential flat on the first floor. The outbuilding was constructed in July 2011 without planning permission and is unlawful. The outbuilding is being used as a mixed martial arts studio/gymnasium.

The use of the building for a mixed martial arts studio/gymnasium is causing noise and disturbance to nearby residential properties. The use is also generating parking problems in the locality.

It is considered that planning permission would not be granted to retain the outbuilding and the mixed use as martial arts studio/gymnasium. It is therefore requested that authority be given to issue and serve an Enforcement Notice in order to seek to remedy the breaches.

## 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. Cease the use of the single storey building shown crosshatched on the attached plan constructed within the rear garden of the land at 39 Collier Row Lane for mixed martial arts studio/gymnasium purposes.
2. Demolish the single storey building shown crosshatched on the attached plan within the rear garden of the land at 39 Collier Row Lane.
3. Remove from the land at 39 Collier Row Lane all rubble and waste materials, resulting from compliance with (2) 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 No. 39 Collier Row Lane is a mid terraced property forming part of a terrace of ten properties, situated to the southern side of the road and all of which have a commercial/retail use at ground floor level with residential accommodation to the first floor.
  - 1.2 The properties immediately to the south, accessed from Hainault Road and Rosedale Road are in residential use.

- 1.3 The rear yard of No. 39 Collier Row Lane has a single storey outbuilding located at the bottom of the yard. The building is rectangular in shape and is the subject of this report.

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

- 2.1 P0491.12 – Change of use of building to rear of No. 39 to a mixed martial arts studio. – application withdrawn by applicant

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

- 3.1 In November 2011 the Council received complaints that a building within the rear garden of No. 39 Collier Row Lane is operating as a boxing club. It was alleged that the building was recently constructed and that the use was causing noise and disturbance to adjoining occupiers.

- 3.2 The owner was advised that planning permission is required to regularise the situation. The Council received a planning application for a change of use of the building to the rear of No. 39 to a Mixed Martial Arts studio. The application was subsequently withdrawn by the applicant. Despite attempts to resolve the situation, the use continues.

- 3.3 It is considered that there is a breach of planning control consisting of , without planning permission,

The use of a single story building in the rear yard of No. 30 Collier Row for a mixed martial arts studio/gymnasium.

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

- 4.1 The use of the building for the purpose of a martial arts studio and gymnasium causes has the potential to cause noise and disturbance to nearby residential occupiers. The use also can also result in parking problems within the vicinity of the site.

- 4.2 Staff considers that the relevant planning policies are contained within the Havering Local Development Framework (LDF). These include policies DC33, DC55 and DC61 of the Core Strategy and Development Control Policies DPD.

## 5. **Recommendation for action**

- 5.1 The single storey building in the rear garden of No. 39 Collier Row Lane was constructed without any planning permission and consequently has a nil use and cannot lawfully be used for any specific purpose.

- 5.2 The building is rectangular in shape and covers a substantial part of the garden. It is located close to residential gardens and the only access to the building is via an access strip that runs to the rear of the commercial premises.
- 5.3 Staff considers that the size and design of the building is comparable to the block of garages that adjoins the site and that planning would likely be granted for the structure itself. Although the design and the appearance of the building is acceptable in principle, staff are concerned about the use of the building and the likely impact on residential amenity and parking pressures in the area.
- 5.4 Policy DC 61 states that planning permission will not be granted for proposals that result in unreasonable adverse effects on the environment by reason of noise impact and hours of operation. The Council has received a number of complaints about the hours of use, the level of activity associated with the use and the noise generated by this development.
- 5.5 Policy DC 55 states that planning permission will not be granted if it will result in exposure to noise or vibrations above acceptable levels affecting a noise sensitive development such as all forms of residential accommodation. In the absence of any planning conditions there are no conditions to control the hours of operation, levels of noise generated or sound insulation to the building.
- 5.6 Policy DC 33 seeks to ensure that adequate car parking is provided. Highways objects to a mixed use martial arts studio/gym in this location based on existing parking pressures in the area. The site provides no off-street parking and it would appear that parking is taking place in the access road when customers visit the premises. This in turns results in noise and disturbance to nearby residential properties.
- 5.7 In summary, the alleged breaches of planning control have occurred within the last four years and the Council would be acting within the time limit for taking enforcement action, i.e. the developments are captured within the 4 year rule. Staff considers that the developments are contrary to policy DC33, DC55 & DC61 of the LDF Core Strategy and Development Control Policies DPD.
- 5.8 Finally Staff consider that three months is sufficient time to complete the works necessary to comply with the requirements set out in the recommendation section of this report.

## **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 considered the above duty and the Human Rights Act 1998 there are no equality or discrimination implications raised.

**BACKGROUND PAPERS**

- 1. Aerial Photographs*
- 2. Relevant Planning History*