



REGULATORY SERVICES COMMITTEE

REPORT

24 October 2013

Subject Heading:

Alleged breach of planning control at
Upminster Court, Hall Lane, Upminster

Report Author and contact details:

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

Policy context:

Local Development Framework
London Plan July 2011

Financial summary:

Defence of any appeal against
Enforcement Action and remedy of the
unauthorised development may 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

This report relates to works to provide lighting within the grounds of Upminster Court, a grade II listed building, undertaken without the benefit of planning permission. It is considered that the lighting that has been installed, given its nature, extent and type results in material harm to the historic setting of the building and its gardens. Additionally, the nature of the lighting close to

neighbouring residential properties results in undue light spillage adversely affecting residential amenity. A planning application for a lighting scheme, including the unauthorised lights has previously been refused. It is recommended that planning enforcement notices be served.

RECOMMENDATIONS

That the committee consider it expedient to issue Enforcement Notices on the owners / occupiers of the property requiring, within 3 months, that:

- (i) The 27 bollard lights within the grounds of the property be removed;
- (ii) The 6 floodlights at the base of trees to the front of the property be removed;
- (iii) The 6 spike uprights to the front of the property and 2 within the car park be removed.

That power to issue enforcement notice(s) against the owners / occupiers of the property including the precise wording of the breach, reasons for service and requirements be delegated to the Head of Regulatory Services, in consultation with the Assistant Chief Executive.

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, as amended by the Planning and Compensation Act 1991.

REPORT DETAIL

1. **Site Description**

- 1.1 The site is located to the western side of Hall Lane and comprises the main Upminster Court, ancillary buildings and grounds. Upminster Court is a Grade II listed building. The gardens of Upminster Court were laid out at the beginning of 20th Century to accompany the building and are registered at Grade II on English Heritage's Register of Historic Parks and Gardens.
- 1.2 The site was previously owned by the Council and used as a training centre. The site was sold and planning permissions and listed building consents were granted between 2007 and 2011 in relation to the use of the buildings as a training centre including overnight accommodation and headquarter offices. These permissions have been implemented.
- 1.2 The surrounding area is characterised by residential properties to the north (properties in Hall Lane and River Drive) and south (properties in Hall Lane, Masefield Drive and Ruskin Avenue) with open space to the east (Upminster Hall Playing Fields) and west (Upminster Golf Course).

2.0 **The Alleged Planning Contravention**

- 2.1 The alleged planning breaches at the site relate to the installation of lighting in the grounds of the property.
- 2.2 There are 6 spike uplighters placed around the main Upminster Court Building. The uplighters provide an illuminated façade to the building during hours of darkness. There are 27 bollards incorporating lighting located either side of the central path, to the front of the main building and alongside the access way and car park to the south of the site. There are 6 floodlights placed in the ground adjacent to trees to the front of the main building – these floodlights are not always in use. There are a further two spike uplighters at the western end of the car park.

3.0 **Relevant Planning and Enforcement History**

- 3.1 There have been a number of planning and listed building consent applications. The following are the most relevant:

L0018.07 and P2370.07 - Change of use of training centre to a mixed use of training centre and associated overnight accommodation comprising 12 no. bedrooms. Change of use and extension of Coach House to provide managers accommodation and facilities ancillary to training centre. Demolition of existing bungalow and erection of a pair of semi detached dwellings with detached double garage for staff use. Provision of subterranean office accommodation at side of main building. Infill single storey extension to main building at front to provide refectory. Erection of new and rebuilding of existing greenhouse. Provision of 3 no. tennis and multi use games court. Resurfacing of car park. Alteration to access drives and internal roads. Rebuilding of front boundary wall and railings. Installation of boundary and security fencing. Approved.

L0001.10 and P0107.10 - Demolition of existing dwelling at No. 135 Hall Lane and construction of 2 no. detached bungalows adjacent to the Coach House. Provision of new access driveways from Hall Lane with new access gates and railings to site frontage Refused

L0006.10 and P0681.10 - Provision of new access driveways form Hall Lane with new access gates and railings to site frontage - Approved

L0008.11 and P0529.11 Provision of new access driveways from Hall Lane with new access gates and railings to site frontage (amendment of applications P0681.10) not yet determined.

L0011.11 Listed Building Consent for installation of a security system approved

P0051.11 Retention of re-located sub-station to a revised design (resubmission of P1228.10) approved.

P1793.11 External floor lighting, uprights and lamp standards. Refused

L0002.13 and P0149.13 Retention of enclosures to house mechanical plant and bin storage, including screen planting. Under consideration.

P0159.13 Perimeter pole enclosure for the existing hard courts. Under consideration

4.0 **Policy and Other Material Considerations**

4.1 Section 12 of the National Planning Policy Framework (NPPF) sets out policies for conserving and enhancing the historic environment. Paragraph 132 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 development within its setting. Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.2 Paragraph 125 of the NPPF states that by encouraging good design, planning decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. National Planning Practice Guidance (Beta) on light pollution states that although artificial light provides valuable benefits to society, not all modern lighting is suitable in all locations. Guidance states further that for maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time. Light intrusion occurs when the light spills beyond the boundary of the area being lit. Lighting near or above the horizontal is usually to be avoided to reduce glare and sky glow. More lighting does not necessarily mean better lighting. For example, large differences in adjacent lit areas can cause areas of high contrast or glare.

4.3 Policy 7.3 of the London Plan states that places should incorporate appropriately designed security features. Policy 7.8 states that development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

4.4 Policy DC56 (Light) of the Council's Local Development Framework (LDF) states that in order to minimise the intrusion of artificial lighting, planning permission will only be granted for development, including artificial lighting, where it does not have a negative impact on the amenity of residents or public safety. Planning conditions may be used to control the level of luminance, glare, spillage, angle, type of lighting and hours of operation.

- 4.5 Policy DC61 (Urban Design) states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the area.
- 4.6 Policy DC67 (Buildings of Heritage Interest) states that proposals involving Listed Buildings or their setting will only be allowed where it does not adversely affect a Listed Building or its setting.
- 4.7 Policy DC63 (Delivering Safer Places) requires that security features be well designed.
- 4.8 Planning application reference P1793.11 proposed a lighting scheme for the site that included the lighting currently installed plus additional lighting columns which have not been installed. Planning permission was refused for the following reasons:
- 1 The proposed lighting, by reason of the excessive amount of lighting proposed and its inappropriate design and layout, is detrimental to the special character of the registered Historic Garden in which it will be located and the setting of the Grade II listed buildings. The proposal is therefore considered to be contrary to the NPPF and Policies DC61 and DC67 of the LDF, as well as Policy 7.8 of the London Plan.
 - 2 The proposed lighting, by reason of its design and the excessive amount of lighting proposed, will result in an unnatural degree of brightness to the grounds of this building that is detrimental to the character and appearance of the wider locality and to neighbouring residential amenity, contrary to Policies DC56 and DC61 of the LDF.
- 4.9 The bollard lighting has, in the main, been installed primarily to provide illumination for vehicles and pedestrians and does provide a level of security for users of and visitors to the site. Some of the bollard lighting, the floodlights below the trees and the uplights provide general illumination of the grounds and building rather than serving any specific security purpose. There is no in principle objection to providing lighting on the site and it is considered that a safe and secure environment should be provided through the use of appropriate lighting. The main consideration in relation to the lighting that has been installed is whether it is acceptable in relation to the setting of heritage assets (listed buildings and gardens) and whether there is any adverse impact on neighbouring residential amenity.
- 4.10 Upminster Court is a fine example of a substantial Edwardian Country Mansion, built in the Wren Revival in 1905 and designed by Professor Charles Reilly. Not only the house is listed, but the Stable Block, front gates and curved piers have their own independent entries on the statutory list (all are Grade II listed), and the garden in which they are set is included on the Register of Historic Parks and Gardens (Grade II). As such, although they are separately listed, the site should be considered as a complex of inter-related heritage assets, all of which must be preserved and enhanced to ensure complex retains its special historic and architectural character, as specified in the NPPF.
- 4.11 In the case of the lighting that has been installed, the amount of lighting is considered to be excessive to the extent that it would be detrimental to the

special character of the registered historic garden. Not only is the amount of lighting excessive but the type and location of the lighting proposed is also considered to be detrimental to the special character of the site.

- 4.12 The bollard lighting comprises 27 bollards, which is considered to be excessive. The style and layout of the bollards is very formal, which is out of keeping with the natural form and layout of the landscaped area. There are bollards lining the central driveway, which is not used by vehicles or pedestrians, and are therefore considered to be superfluous. Rather than providing directional light, for example downwards, the bollard lighting throws light in all directions, including upwards, creating a glow effect and lighting areas which are not required to be lit.
- 4.13 The floodlighting beneath the tree canopy at the site frontage and a number of spike uplighters results in a degree of lighting which floods the front of the site, rather than delicately drawing attention to key features. To the area to the front of the building, the effect of the and the floodlights beneath the trees is to produce a ambient glow that serves no real purpose other than to detract from the historic importance of the garden and the building itself. The degree of brightness is inappropriate to the character of this heritage site.
- 4.14 From inspection of the lighting at night, it is apparent that some parts of the site which are used by pedestrians are lit whilst others are in shade, and this does not provide a particularly safe, secure environment that the lighting was intended to provide. As part of the refused planning application, the Council's Secure by Design Advisor indicated that a lower level of lighting but with more consistent lux levels across the site would provide a more secure environment. He further advised that the whole frontage of the building and grounds would not need to be lit to ensure a safe environment as there is significant security in the form of controlled gates, railings, high level fencing and CCTV.
- 4.15 It is therefore considered, that the amount of lighting that has been installed is unnecessary and excessive and that the design and layout of lighting combines to form a lighting scheme that is significantly detrimental to the special character of the registered historic garden and Grade II listed building, contrary to the provisions of the NPPF, Policy 7.8 of the London Plan and Policy DC67 of the LDF.
- 4.16 The extent of lighting is considered to result in a level of brightness that would be uncharacteristic of this site and also the local area, to the degree that it would be harmful to local character and the streetscene. The proposal would therefore be contrary to Policy DC61.
- 4.17 The lighting bollards that are located to the entrance drive and car parking area produce a significant amount of upward illumination and glare. This is evidenced by the side fence and the rear and side elevation of the nearest property on Hall Lane being illuminated. It is considered that the overall degree of luminance produced by the development would be to a degree that is unreasonably harmful to neighbouring residential amenity. Without a specific planning permission being in place, there would be no way of controlling the hours of lighting or requiring sensors to control when the lights come on and off. Given the degree of lighting and lack of control it is

consider that there is material harm to the amenity of neighbouring residential occupiers, contrary to Policy DC56 of the LDF, NPPF and National Planning Guidance.

5.0 **Recommendation for Action**

- 5.1 For the reasons outlined above, the lighting that has been installed is considered to be unacceptable. Advice has been given to the agent representing the owners of the site as to what type of lighting scheme may be acceptable and they have been encouraged to engage a lighting engineer. However, the lighting remains in place without planning permission. The owners of the site have made some attempt to screen the side of the bollards facing the nearest residential property but the level of lighting is still considered to be detrimental to the residential amenity and there has been no changes to reflect the impact on the setting of designated heritage assets. A planning application was submitted in August to retain the lighting but it was not considered to be valid as details of the lighting levels were not provided to allow a full assessment to be made. The further details requested have not, to date, been submitted.
- 5.2 Taking into account the harm that has been identified, it is recommended that enforcement notices be served requiring the removal of the unauthorised lighting. It is considered that three months would be adequate period to secure compliance with the notice.

IMPLICATIONS AND RISKS

Financial implications and risks:

Enforcement proceedings may have financial implications for the Council

Legal implications and risks:

Enforcement action, defence of any appeal, and prosecution or other procedures required to remedy the breach of control will have resource implications for the Legal Services

Human Resources implications and risks:

No implications identified

Equalities implications and risks:

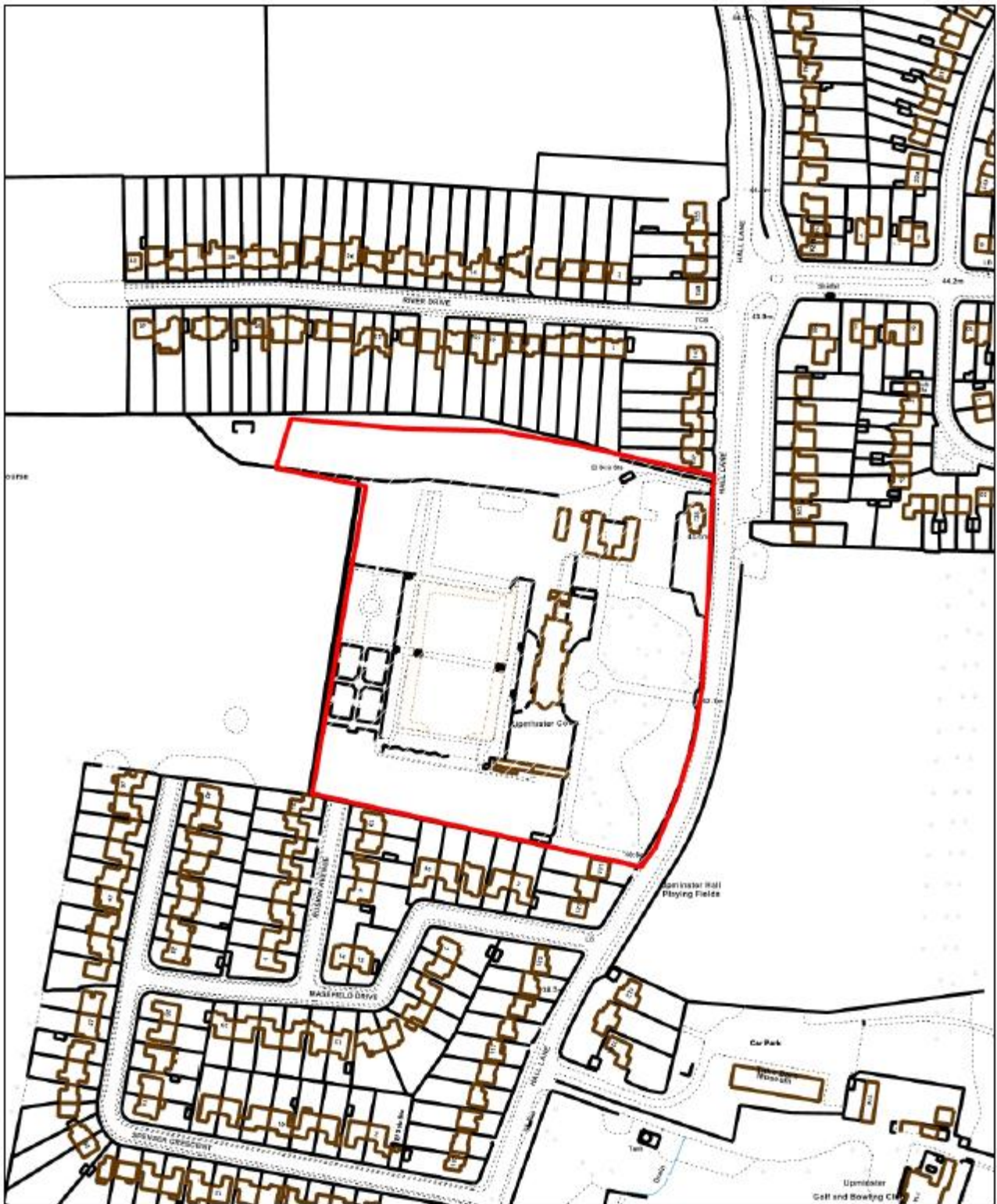
Section 149 of the Equalities Act 2010 (EA) came in to force on 1st April 2011 and broadly consolidates and incorporates the 'positive equalities duties' found in Section 71 of the Race relations Act 1976 (RRA), Section 49 of the Disability Discrimination Act 1995 (DDA) and section 76(A) (1) of the Sexual 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.

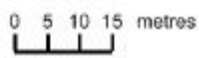
BACKGROUND PAPERS

1. Site

Plan



Scale: 1:2500
 Date: 09 October 2013
 Size: A4



London Borough of Havering
 Town Hall, Main Road
 Romford, RM1 3BD
 Tel: 01708 434343

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