

RE: 29 ROSLYN GARDENS, GIDEA PARK, ROMFORD, RM2 5RH

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY: London Borough of Havering (herein after referred to as "the Council")

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations.

2. **THE LAND AFFECTED**

The land at 29 Roslyn Gardens, Gidea Park, Romford, RM2 5RH, as shown edged in black on the attached plan.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, the erection of a part single- / part 2- storey side extension.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred "within the last FOUR years" and that steps should be taken to remedy the breach by Section 173 4(a) or to remedy any amenity or injury which has been caused by the breach.

It is considered that the development is, by reason of scale, bulk and mass is an unacceptably dominant and visually obtrusive feature, and is harmful to the appearance of the street scene and surrounding area. The development is therefore contrary to the NPPF, London Plan policies 7.4, 7.5 and 7.6, and policies DC33, DC61 and DC69 of the Havering Core Strategy and Development Control Policies DPD.

The Council does not consider that planning permission should be granted for the development because conditions attached to any consent would not overcome these problems.

5. WHAT YOU ARE REQUIRED TO DO

- (i). Remove the side extension
- (ii). Remove all materials and debris from the site associated with requirement (i)

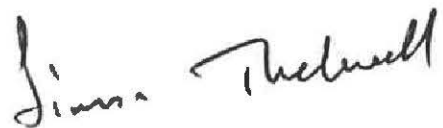
Time for compliance with steps (i), and (ii) above: 6 months from the effective date of this notice.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **31st August 2016**, unless an appeal is made against it beforehand.

Dated: 27th July 2016

Signed:

A handwritten signature in black ink, appearing to read "Simon Mitchell". The signature is written in a cursive style with a large initial 'S'.

Authorised Officer

on behalf of London Borough of Havering
Town Hall
Main Road
Romford RM1 3BD

YOUR RIGHT OF APPEAL

You can appeal against this Enforcement Notice to the Secretary of State by the **31st August 2016**. Further details are given in the attached explanatory note.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on **31st August 2016** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the Notice.

FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.

EXPLANATORY NOTES

YOUR RIGHT OF APPEAL

You can appeal against this Notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Secretary of State before **31st August 2016**.

If you intend to appeal against this Notice you should follow the instructions given on the information sheet from the Planning Inspectorate which accompanies this Notice.

GROUND OF APPEAL

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the Notice, planning permission ought to be granted, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the Enforcement Notice were not served as required by section 172;
- (f) that steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all these grounds may be relevant to you.

PLANNING APPLICATION FEE

Should wish to appeal on ground (a) - that planning permission should be granted for the unauthorised development - then a fee of **£172.00** is payable both to the Secretary of State and to the Council, making the total fees payable **£344.00** If the fees are not paid then that ground of appeal will not be valid.

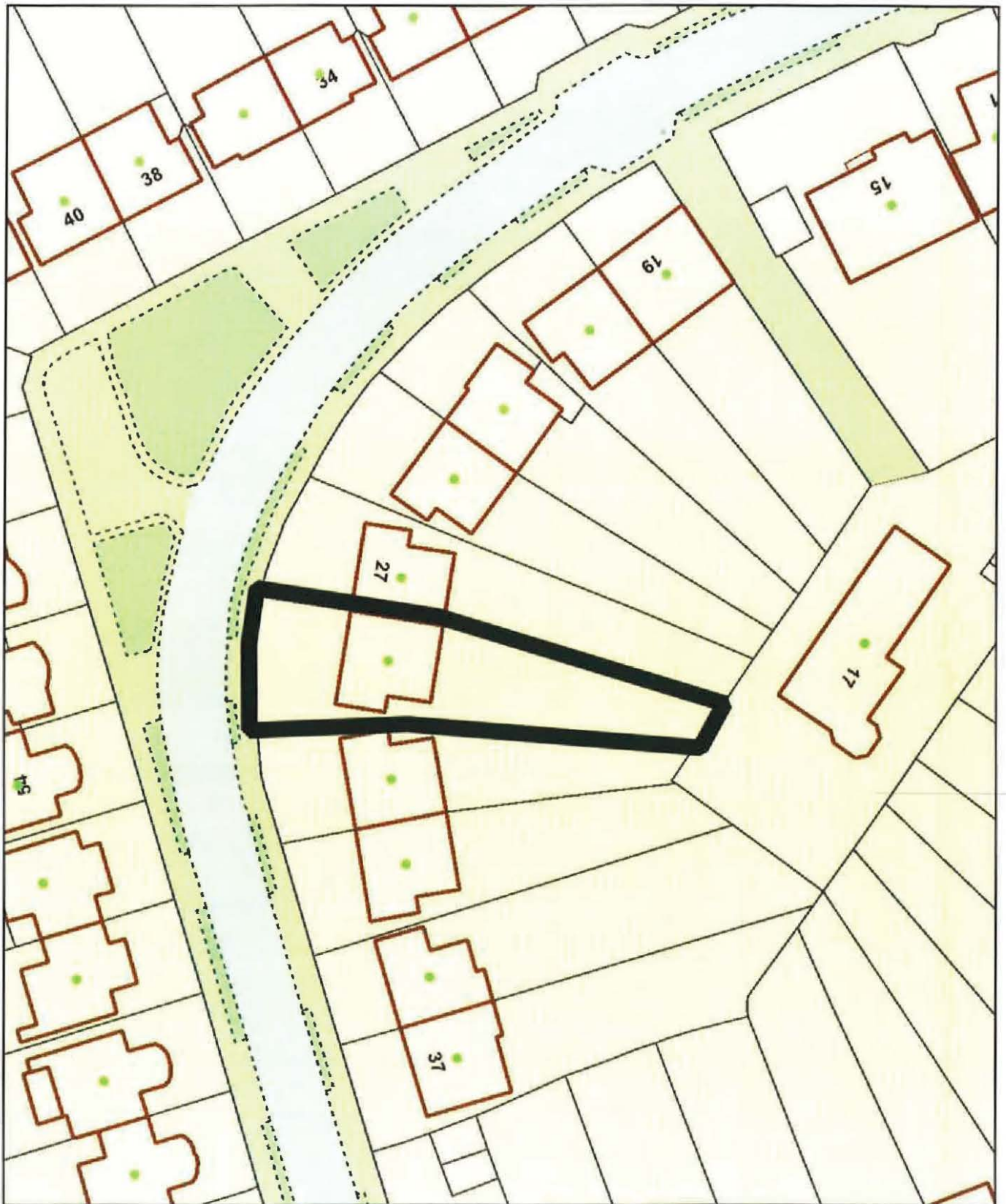
STATEMENT ON GROUNDS OF APPEAL

You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring, a statement in writing specifying the grounds on which you are appealing against the Enforcement Notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

RECIPIENTS OF THE ENFORCEMENT NOTICE

The names and addresses of all the persons on whom the Enforcement Notice has been served are:

- 1) The Owner / Occupier; 29 Roslyn Gardens, Gidea Park, Romford, RM2 5RH
- 2) Colin Christopher Cameron; 29 Roslyn Gardens, Romford, RM2 5RH
- 3) Tracey Michelle Cameron; 29 Roslyn Gardens, Romford, RM2 5RH
- 4) National Westminster Bank PLC; Mortgage Centre, P.O. Box 12201, 7 Brindley Place, Birmingham B2 2NA.
- 5) National Westminster Bank Public Limited Company; 135 Bishopsgate, London, EC2M 3UR



<p>29 Roslyn Gardens, Romford, RM2 5RH</p>	
	<p>Scale: 1:500 Date: 07 July 2016</p> 
 <p>London Borough of Havering Town Hall, Main Road Romford, RM1 3BD Tel: 01708 434343</p>	<p>© Crown copyright and database rights 2016 Ordnance Survey 100024327</p>

Appeal Decision

Site visit made on 18 April 2017

by **K R Saward Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 May 2017

Appeal Ref: APP/B5480/C/16/3157386

29 Roslyn Gardens, Gidea Park, Romford RM2 5RH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Colin Cameron against an enforcement notice issued by the Council of the London Borough of Havering.
- The enforcement notice was issued on 27 July 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a part single /part 2-storey side extension.
- The requirements of the notice are:-
 - (i) Remove the side extension.
 - (ii) Remove all materials and debris from the site associated with requirement (i).
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(f)&(g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Procedural Matters

1. In its Appeal Statement, the Council refers to the requirements of the notice in terms of it *either* requiring removal of the side extension or removal of the materials and debris. Use of the word "either" is clearly a mistake. It does not override the notice which requires both steps to be taken.
2. The appellant queries how the Council's delegated officer's decision can have had regard to matters arising under an appeal on ground (f) when that decision pre-dated the appeal. I take the Council's comments to refer to it having considered whether the notice could be drafted in such a way as to provide an alternative to demolition.

Reasons

The appeal on ground (f)

3. The appeal concerns a part single and part two storey extension constructed at No 29 Roslyn Gardens, a semi-detached house. A retrospective application for what is described as the "2 storey side extension" was dismissed on appeal¹ on 13 March 2014. The development was subsequently found by the Council to still be in situ prompting the issue of the enforcement notice.

¹ Appeal ref: APP/B5480/D/14/2212893

4. The ground of appeal is that the steps required by the notice to be taken are excessive. This ground does not involve a consideration of the planning merits. Therefore, arguments concerning the development as built do not fall to be considered in the absence of an appeal on ground (a) and payment of the requisite fee. For the same reason other appeal decisions referred to by the appellant where development has been allowed for reasons related to character and appearance do not have bearing in this ground (f) appeal. Whilst noting that the neighbour at No 31 supports the appellant, those comments also concern the planning merits.
5. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. These are either to remedy the breach of planning control which has occurred (section 173(4)(a)), or to remedy any injury to amenity that has been caused by the breach (section 173(4)(b)). The notice indicates that it has been issued for both purposes. The requirement to remove the unauthorised side extension reinforces an aim of remedying the breach. In addition, the reasons for issuing the notice identify injury to amenity from visual harm to the street scene.
6. Remedy of the breach can only be achieved by removal of the extension and so the requirement is not excessive. Nevertheless, enforcement action is intended to be remedial rather than punitive.
7. The appellant has supplied a copy of a 1972 planning permission and approved drawing for the 'erection of garage with bedroom over' and suggests reinstatement in accordance with this plan as a lesser step. According to the Council this planning permission was never implemented. Due to the passage of time, it will have lapsed and does not therefore afford an alternative option.
8. The Council Officer's delegated report recommended that an enforcement notice should give the option of reinstating the side garage and reducing the size of the extension to accord with a previously approved plan for a Lawful Development Certificate² (LDC) or to remove the 'roof extension' in its entirety. The option of a reduction was not given in the issued notice. The reason provided by the Council is that it would be a completely new building involving removal of the whole side extension and such a measure would lack precision.
9. A notice can require restoration of the property to its condition prior to the breach of planning control or to secure compliance with a lawful fallback position provided it can be done with precision. The LDC was for a proposed development. In the absence of plans and further details I have no means of knowing what existed immediately before the breach took place or whether the proposal would remain lawful to assess if there is a solution in this regard short of a complete remedy.
10. The appellant refers to alternative proposals that are being discussed with the Council, but has not suggested how they might amount to lesser steps in this appeal, if at all. However, since this appeal was submitted the Council has granted planning permission on 24 April 2017 pursuant to application no. P0257.17 for a two storey side extension encompassing revisions on the existing unlawful development. The effect of section 180 of the 1990 Act is that the notice ceases to have effect insofar as it is inconsistent with any subsequent permission. This means that the notice will not bite if revisions are

² Application ref: D0134.13

made to comply with the new permission within the compliance period. It is appropriate that the notice be varied to give the appellant the option of either demolishing the unauthorised extension or making alterations to accord with the terms of the new planning permission. It is beyond the scope of this decision for me to pass any comment on the merits of the newly approved scheme, as invited by the appellant.

11. To the extent described, the appeal on ground (f) succeeds.

The appeal on ground (g)

12. The ground of appeal is that the time given to comply with the requirements of the notice falls short of what should reasonably be allowed. The appellant seeks 8 months from the date of an email sent to the Planning Inspectorate on 27 October 2016 i.e. until 27 June 2017 to accommodate ongoing negotiations with the Council and the submission of revised plans.

13. The effect of the appeal is to stop the clock. The notice only takes effect on the date of this appeal decision. The 6 month period given in the notice therefore goes well beyond the date sought by the appellant. Planning permission has now been secured for a revised scheme which can be implemented immediately.

14. If the appellant opts to build out the revised scheme instead of demolishing the extension, the Council suggests this should be done within 4 months. Whilst not raised by the appellant, I see no justification in allowing a lesser period for compliance with the approved scheme particularly as alterations could take longer than works of demolition. Six months is a reasonable period in either scenario.

15. The ground (g) appeal fails.

Formal Decision

16. It is directed that the enforcement notice be varied by deleting the text under paragraph 5. in its entirety and inserting:

“EITHER (i) remove the side extension OR (ii) alter the extension to comply with the terms of planning permission reference P0257.17 dated 24 April 2017 including the conditions subject to which that permission was granted;

AND (iii) remove all materials and debris from the site associated with requirement (i)/(ii).

Time for compliance: 6 months from the effective date of this notice.”

17. Subject to these variations the appeal is dismissed and the enforcement notice is upheld.

KR.Saward

INSPECTOR