

RE: 15 Fairholme Avenue Gidea Park Romford RM2 5UP

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

- TO:**
1. The Owner of the said land
 2. The Occupier of the said land
 3. Mr Kuldip Singh Uppal 15 Fairholme Avenue Gidea Park Romford RM2 5UP
 4. Mrs Bimla Uppal 15 Fairholme Avenue Gidea Park Romford RM2 5UP
 5. Company Secretary, Halifax PLC, of Trinity Road, Halifax, West Yorkshire HX1 2RG

ISSUED BY: London Borough of Havering

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 15 Fairholme Avenue Gidea Park Romford RM2 5UP shown hatched Black on the attached plan.

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

A material change of use from the authorised use as a domestic outbuilding incidental to the main dwelling to an unauthorised use for commercial purposes namely the commercial preparation and cooking of food.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years. The unauthorised use is not suitable for this residential area. It disturbs the neighbours through noise, traffic movement and car parking and the activity associated with the unauthorised use cause noise and disturbance not suitable for a residential area. The Council do not consider that planning permission should be

given, because planning conditions could not overcome the adverse affects on the amenities of neighbours.

In making its decision to issue this Notice the Council considered that the unauthorised use is contrary to the following policies of the Havering Unitary Development Plan: policies ENV1 as tested through refusal of planning application reference: P0228.06.

5. WHAT YOU ARE REQUIRED TO DO

- (i) Stop using the outbuilding for commercial purposes namely the commercial preparation and cooking of food and return it to its lawful use, incidental to the enjoyment of the main house.

Time for compliance: 3 months from the effective date of this notice.

- (ii) Remove all equipment, machinery and installations brought into the outbuilding for purposes associated with the unauthorised use of the outbuilding for commercial purposes namely the commercial preparation and cooking of food.

Time for compliance: 3 months from the effective date of this notice

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 18th August 2006, unless an appeal is made against it beforehand

Dated: 17th July 2006

Signed:


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 18th August 2006. 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 18th August 2006 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

STATUTORY PROVISIONS

A summary of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

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 18th August 2006. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. If you appeal you should use the enclosed appeal forms. Two copies are for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State a copy of the Enforcement Notice.

GROUND OF APPEAL

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1991 and are also set out on page 2 - 5 the enclosed appeal forms.

PLANNING APPLICATION FEE

Should wish to appeal on ground (a) - that planning permission should be granted for the unauthorised use - then a fee of £265.00 is payable both to the Secretary of State and to the Council. 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 him a notice so requiring him, 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 of the said land
2. The Occupier of the said land
3. Mr Kuldip Singh Uppal 15 Fairholme Avenue Gidea Park Romford RM2 5UP
5. Mrs Bimla Uppal 15 Fairholme Avenue Gidea Park Romford RM2 5UP
5. Company Secretary, Halifax PLC, of Trinity Road, Halifax, West Yorkshire HX1 2RG



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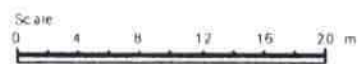
15 Fairholme Avenue, Gidea Park, Romford. RM2 5UP



Map Reference TQ52895E

Date 23/02/2006

Scale 1:500






 Ordnance Survey



London Borough of Havering
 Planning Department
 Mercury House, Mercury Gardens
 Romford, RM1 3SL
 Tel: 01708 434333

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 London Borough of Havering 100024327



Appeal Decision

Site visit made on 30 January 2007

by Neil Roberts BA DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date 9th February 2007

Appeal A Ref: APP/B5480/C/06/2022486 — 1459
15 Fairholme Avenue, Gidea Park, Romford RM2 5UP

- 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 and Mrs Uppal against an enforcement notice issued by the Council of the London Borough of Havering.
- The Council's reference is ENF 1315.
- The notice was issued on 17 July 2006.
- The breach of planning control as alleged in the notice is a material change of use of the land shown hatched black on the plan attached to the notice from the authorised use as a domestic outbuilding incidental to the main dwelling to an unauthorised use for commercial purposes namely the commercial preparation and cooking of food.
- The requirements of the notice are:
 1. Stop using the outbuilding for commercial purposes namely the commercial preparation and cooking of food and return it to its lawful use incidental to the enjoyment of the main house.
 2. Remove all equipment, machinery and installations brought into the outbuilding for purposes associated with the unauthorised use of the outbuilding for commercial purposes namely the commercial preparation and cooking of food.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B Ref: APP/B5480/A/06/2026565 — 1483
15 Fairholme Avenue, Gidea Park, Romford RM2 5UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Uppal against the decision of the Council of the London Borough of Havering.
- The application Ref P0228.06, dated 23 January 2006, was refused by notice dated 10 April 2006.
- The development proposed is change of use of garden outbuilding to use for mobile catering preparation and storage for party food preparation.

Summary of Decision: The appeal is dismissed.

Appeal B

Main Issues

1. The main issues are:
 - (a) the effect of the development on the level of amenity neighbouring residents might reasonably expect to enjoy, with particular reference to odours, noise and general disturbance;
 - (b) whether the property is suitable for the unauthorised commercial activity in respect of servicing arrangements.

Planning Policy

2. The development plan is the Havering Unitary Development Plan 1993. The most relevant policy is ENV1, a general environmental policy which requires that all new development shall be compatible with its surroundings.

Reasons

The First Issue: Residential Amenity

3. Fairholme Avenue is a primarily residential street enjoyed as such by local residents. The outbuilding subject of the appeal is situated at the bottom of the rear garden of No. 15. The rear gardens of this and neighbouring properties are relatively modest in size. The appellant has formed a catering company and the outbuilding is used in that connection for cooking and storing food. At the time of my inspection there was a faint smell of curry in the garden of No. 15. Cooking smells inside the building were much stronger, and wafted into the garden with the door open. I would expect neighbours in their rear gardens, and possibly within their homes if windows were open, frequently to be aware of the cooking odours. That is borne out by the written evidence from neighbours. Moreover, the cooking smells would be apparent on virtually a daily basis. I have no doubt that in this situation neighbouring residents have suffered considerable loss of amenity due to these odours.
4. It is suggested that the installation of appropriate fume extraction, ventilation and odour control equipment could resolve that problem. Whilst such equipment would have some mitigating effect I do not believe that it would reduce the odour problem to acceptable levels. In my judgement cooking smells would continue to be apparent to neighbours, who would continue to suffer an unacceptable loss of amenity as a result.
5. It is further suggested that use of the outbuilding could be restricted to the preparation of cold food only. That would not, however, address the further problem of noise and general disturbance about which neighbours also complain. The comings and goings associated with the commercial use of the building would be readily apparent to the closest neighbours, and are likely to exceed the level of activity associated with residential use of the property.

The Second Issue: Servicing Arrangements

6. It is submitted that cooking materials are collected and brought to the site by the appellant. That is not borne out by the Council's photographic evidence, which shows deliveries by large commercial vehicles. That is not appropriate in this residential area, especially having

regard to the parking restrictions in place, and is likely to cause further disturbance to neighbours.

7. There is also concern about arrangements for disposal of refuse. Photographs show piles of filled refuse sacks on the forecourt of the property. At the time of my inspection alternative arrangements appeared to have been made, a large refuse bin of a type commonly used at commercial premises being sited on the forecourt. The appearance of such a bin in this residential area is, however, somewhat incongruous.

Conditions

8. I have considered whether the development could be rendered acceptable by the imposition of conditions on a planning permission. However, the drawbacks of the development are too basic to be remedied in that manner. In essence the site is fundamentally unsuitable for a commercial use of this type, and there is clear conflict with policy ENVI.

Conclusion on Appeal B

9. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Appeal A

The Ground (g) Appeal

10. It is argued that the 3 month compliance period specified in the notice is unreasonably short. I am requested to make allowance for the fact that the appellant's catering business is newly established, that it is building trade contacts, and that breakdown of its contractual responsibilities could lead to the company failing. I have some sympathy with the appellant's predicament. However, I am aware that neighbouring residents have experienced considerable loss of amenity for a long period, and consider that situation should be remedied as soon as possible. I also understand that the appellant has alternative premises in mind. Taking all those matters into account I consider that the 3 month period for compliance is not unreasonable. Accordingly, the ground (g) appeal fails.

Conclusion on Appeal A

11. For the reasons given above and having regard to all other matters raised, I consider that the appeal should not succeed.

FORMAL DECISIONS

Appeal A Ref: APP/B5480/C/06/2022486

12. I dismiss the appeal and uphold the enforcement notice.

Appeal B Ref: APP/B5480/A/06/2026565

13. I dismiss the appeal.

Neil Roberts

Inspector