

PART 1 - PUBLIC

Decision Maker: Plans Sub Committee No.2

Renewal and Recreation Portfolio Holder

15th July 2010

Date:

19th July 2010

Decision Type:

Non-Urgent

Executive

Non-Key

Title:

**NON-COMPLIANCE WITH ENFORCEMENT NOTICE
10 HOMEFIELD ROAD, BROMLEY BR1 3AL**

Contact Officer:

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Chief Officer:

Director of Legal Democratic and Customer Services
Chief Planner

Ward:

Bickley

1. Reason for report

- 1.1 The owner of the Land has failed to take the action required to comply with an Enforcement Notice regarding the complete removal of railings around a flat roof balcony. Following authorisation and the setting of a date for direct action the owner confirmed that he had removed the railings. However a subsequent site visit has revealed that a section adjacent to the neighbouring property remains and has a fence panel attached to it. No information has been forthcoming to suggest that there is any intention to comply with the enforcement notice and harm is ongoing to the amenities of neighbouring properties.

2. **RECOMMENDATIONS**

- 2.1 Members of Plans Sub Committee 2 are asked to support the proposed action below to ensure compliance with the Enforcement Notice.
- 2.2 The Renewal and Recreation Portfolio Holder is asked to approve that:
- (i) the previously authorised direct action be proceeded with so that steps required by the Enforcement Notice can be complied with and the remaining railings removed; and
 - (ii) additionally, and thereafter, the costs (including any abortive costs) be recovered from the owner, and if necessary, a charge be placed on the Land.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: Estimated cost £1,840 (rechargeable to property)
 2. Ongoing costs: Non-recurring cost.
 3. Budget head/performance centre: Planning Investigation / Enforcement in Development Control
 4. Total current budget for this head: £133,530
 5. Source of funding: Existing revenue budget for 2010/11
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-statutory - Government guidance.
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough-wide
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: Previously supported action

3. COMMENTARY

- 3.1 The property is an end of terrace three storey town house with integral garage, built in the 1960s and fronting the east side of Homefield Road.
- 3.2 Direct action was authorised by the in 2009 to secure removal of the railings, as the owner was unwilling to carry out the work. The owner eventually confirmed that he had carried out the work the day before the Council's contractor was due to attend the site, resulting in abortive costs.
- 3.3 However the owner has chosen to retain the section adjacent to the neighbouring terraced property and has subsequently attached a fence panel to this, resulting in visual harm and a loss of lighting and prospect to the neighbouring property.
- 3.3 Members are asked to note that it is intended to proceed for the second time with direct action to ensure the removal of the remaining section of railings, this time advising the owner that he will be expected to meet any abortive costs.
- 3.4 The owner was written to by letter dated 10th May 2010 giving 28 days to secure and confirm removal of the railings and fence panel. No response has been received and a site visit on 17th June 2010 confirmed that the railings and fence panel remain in place.

4. POLICY IMPLICATIONS

- 4.1 Policies BE1 and H7 of the Unitary Development Plan.

5. FINANCIAL IMPLICATIONS

- 5.1 In the event of taking direct action to ensure compliance with the notice, the Council would seek to recover the cost of works from the owner, if necessary by way of a charging order against the property. The cost of carrying out the work would be £1,840.

6. LEGAL IMPLICATIONS

- 6.1 As a result of the judgment in the High Court the enforcement notice has taken effect. Notwithstanding the representations made by the owner's solicitor the development which the enforcement notice seeks to remove and amend cannot be lawful as it is the subject of an outstanding enforcement notice.

Non-Applicable Sections:	Personnel Implications.
Background Documents: (Access via Contact Officer)	Enforcement and Legal files containing exempt information as defined by Schedule 12a of the Local Government (Access to Information) Act 1985 are not available for public inspection.