

PART 1 - PUBLIC

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**Decision Maker:** PLANS SUB COMMITTEE No. 4

**Date:** 18 February 2010

**Decision Type:** Non-Urgent Non-Executive Key

**Title:** OVER HEIGHT WALL AND FENCE - MEADOWCROFT,  
BERRYS GREEN ROAD, CUDHAM

**Contact Officer:** Tim Bloomfield, Development Control manager  
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**Chief Officer:** Chief Planner

**Ward:** Darwin

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1. Reason for report

A high brick boundary wall and railings has been erected along the front boundary to Berrys Green Road. Although an enforcement notice was issued and upheld on appeal in 2002 it has still not been complied with. Legal proceedings were commenced but have been held in abeyance for some time on the basis of the personal circumstances of the owner.

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2. **RECOMMENDATION(S)**

- 2.1 Legal proceedings be resumed to secure compliance with the effective enforcement notice.
- 2.2 In the event of the notice not being complied with within 3 months of the prosecution, authority be given to enter the land and carry out works in default to reduce the height of the wall to no more than 1m and remove the railings or relocate at least 2m back from the front boundary and a charge be placed on the land.

### 3. COMMENTARY

- 3.1 The site is a detached bungalow on the east side of Berrys Green Road set well back from the road. It is situated within the Green Belt in an attractive predominantly rural location.
- 3.2 A number of complaints were received in 2000 regarding the erection of a brick wall and metal railings along the road frontage. A retrospective planning application reference 99/02906 was submitted for the retention of the wall and railings. On 12 January 2000 permission was refused under delegated authority and enforcement action authorised to secure removal of the wall and railings in excess of 1m high.
- 3.3 A further amended planning application reference 00/01332 was subsequently refused permission and enforcement action authorised at Plans Sub-Committee on 1 March 2001.
- 3.4 On 4 July 2001 an Enforcement Notice was served on the owner requiring the following action to be taken;
- (1) To reduce the brick wall to one metre in height and to remove the railings from the said land.
  - (2) To remove from the land all rubble and building materials in compliance with (1) above.
- 3.5 The appeal against the enforcement notice was dismissed in 2002. The period for compliance was extended from 28 days to 12 months, giving a compliance date of 12 July 2003.
- 3.6 On 24 June 2003 a further application was submitted for the retention of the wall and railings but was not determined on the grounds that it was not materially different to the previous applications, which were refused permission.
- 3.7 A further revised planning application reference 03/03088 seeking retention of the wall and re-siting of the railings was submitted. The revised proposal was for 2m high railings positioned in line with the recessed entry gates but with no change to the height of the wall fronting Berrys Green Road.
- 3.8 On 6 November 2003 the matter was reported to the Plans Sub-Committee when it was resolved that the front wall could be retained at its present height provided that the railings were relocated further back from the front boundary. However, following this decision it became apparent that the owner was suffering from severe health and personal domestic problems. This was confirmed by correspondence and enquiries made through a Senior Social Worker from Oxleas NHS Trust.
- 3.9 In these circumstances it was considered appropriate to defer legal proceedings on the basis of the very special circumstances of the owner. However the enforcement notice remains in force and has still not been complied with some 6 years since the effective date. Clearly, this situation should not continue indefinitely and in view of the excessive length of time involved it is considered that legal proceedings should be resumed to secure compliance with the effective notice. In the event of a successful prosecution and continued failure to comply with the effective notice, it is further recommended that it would be expedient to take direct action to reduce the height of the wall and remove or relocate the railings.

<b>Non-Applicable Sections:</b>	
Background Documents: (Access via Contact Officer)	

HDC/TCB/04/00127