

Report to Planning applications committee
08 March 2018
Report of Head of planning services
Subject Enforcement Case – 2 Mornington Road, Norwich

Item

4(m)

SUMMARY	
Description:	Construction of outbuilding forward of the front elevation.
Reason for consideration at committee:	Enforcement action recommended.
Recommendation:	Authorise enforcement action up to and including prosecution in order to: <ul style="list-style-type: none">• secure the removal of the outbuilding;• secure the removal of the fencing;• making good of the highway;• removal of all demolished materials from site; and• provision of a replacement 1.2m high fence.
Ward:	Nelson
Contact officer:	Stephen Polley stephenpolley@norwich.gov.uk

The site

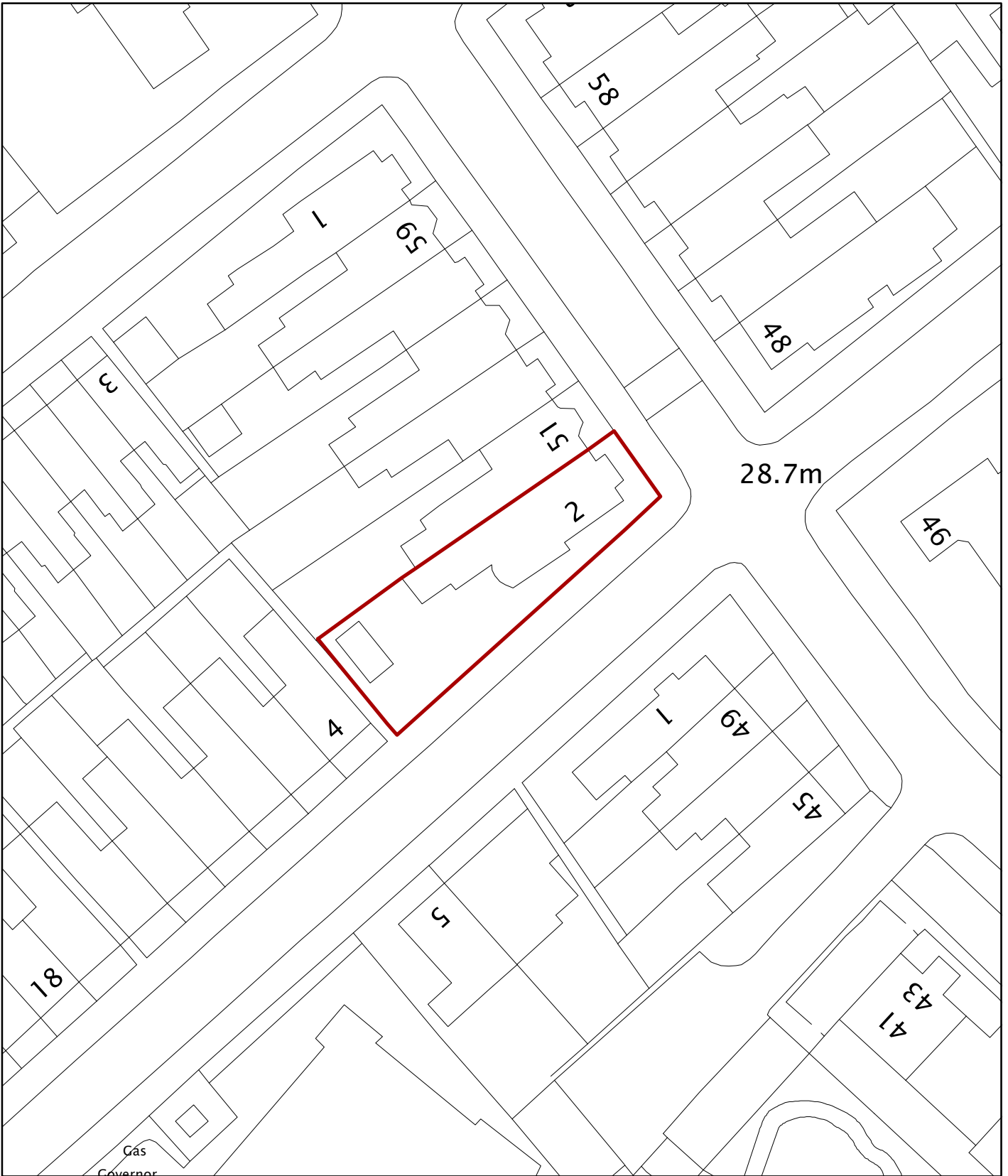
1. The site is located to the north of Mornington Road, at the crossroads with Christchurch Road to the south of the city. The subject property is a large end of terrace dwelling constructed circa 1900 primarily using red bricks. The terrace forms part of a row of properties fronting Christchurch Road, however the principle elevation of no. 2 faces onto Mornington Road. The site features a small front garden / main entrance area and a garden located to the side and front.
2. The prevailing character of the area is predominantly residential with most properties forming terraces. Beyond the end of the garden is an alleyway which separates the site from a row of grade II listed terrace properties at 4-18 Mornington Road.

Relevant planning history

3. Application ref. 17/01308/F Replacement rear garden room. Refused 24.10.2017. This does not relate to the same development which is the subject of this report but relates to a small extension in the location of an existing conservatory on site.

The breach

4. Without planning permission carrying out the following operations:



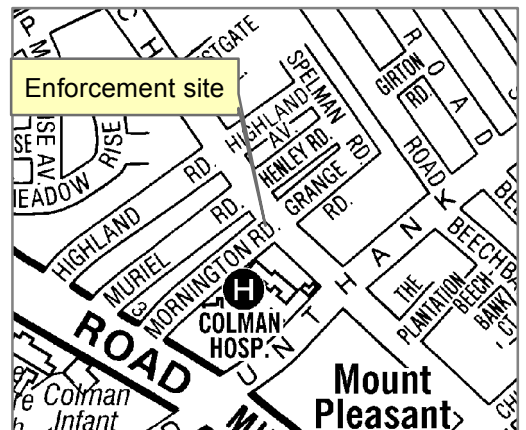
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Planning Application No 17/00131/ENF
 Site Address 2 Mornington Road

Scale 1:500



NORWICH
 City Council
 PLANNING SERVICES



- a) The construction of a large timber outbuilding forward of the principal elevation; and
- b) The installation of a boundary fence fronting Mornington Road.

Relevant policies

National Planning Policy Framework:

- NPPF7 Requiring good design
- NPPF12 Conserving and enhancing the historic environment

Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS):

- JCS2 Promoting good design
- JCS6 Access and transportation

Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan):

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM9 Safeguarding Norwich's heritage

Justification for enforcement

5. Within the past twelve months a boundary fence approximately 1.2-1.5m tall and small shed have been removed from the garden. In their place a substantial flat roof out-building has been constructed within the south-west corner of the garden. The outbuilding has been constructed partially onto the adjacent footway where a garage size and 'half-height' door have been installed, each with concrete access / egress slopes onto the footway. The outbuilding is over 2m in height and has been left in a semi-natural state, resulting in an orange colour, apart from the larger door which has been painted grey. The outbuilding is approximately 4m wide where it fronts the highway and extends along the majority of the alleyway to the western boundary of the property. Whilst there has been an historic access in this location onto the highway in erecting the outbuilding works have been undertaken to the footpath without consent from highways to provide a small ramp up to the garage.
6. The remaining section of the boundary fronting Mornington Road has been marked by a 2m plus close boarded fence and trellis combination, secured by concrete posts.
7. The works which have been carried out constitute operational development and cannot be considered as a form of permitted development as a result of the outbuildings location within the site, which is forward of a wall forming part of the principle elevation of the original dwellinghouse. The replacement fence cannot be considered as a form of permitted development as it has been constructed adjacent to a highway used by vehicular traffic and exceeds one metre in height above ground level. Both the out-building and replacement fence appear to

have been constructed within the past 12 months and as such are not immune from enforcement action.

8. The construction of an outbuilding of this scale, forward of the principle elevation and fronting a highway as well as the installation of a 2m tall fence are considered to be harmful to the character and appearance of the subject property and wider street scene. The proximity of the development to the listed buildings on Mornington Road is considered to be harmful to their setting resulting in less than substantial harm in terms of paragraph 134 of the NPPF. Any benefits of the proposal in question are considered to fall some way short of mitigating the harm to the adjacent terrace and street scene. As such, the outbuilding and fence are considered to be contrary to policies DM3 and DM9 of the Development Management Policies Development Plan Document adopted 2014 as well as paragraph 134 of the NPPF.
9. Enforcement action is therefore required to seek the removal of the outbuilding and fence in order to restore the original character and appearance of the site. Remediation work is also required to ensure that the highway is returned to a good state of repair following the work. A replacement boundary fence should be re-instated along the Mornington Road frontage at a height no higher than 1.2m above ground level.

Equality and diversity Issues

10. The Human Rights Act 1998 came into effect on 2nd October 2000. In so far as its provisions are relevant:
 - a. Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.
 - b. Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the Committee as necessary. This could be in person, through a representative or in writing.

Conclusion

11. For the reasons outlined above the outbuilding and fence are considered to have a detrimental impact on the character and appearance of the property, street scene and setting of the neighbouring listed buildings and as such it is recommended that enforcement action be authorised as per the recommendation below.

Recommendation

To authorise enforcement action up to and including prosecution in order to:

1. secure the removal of the outbuilding;

2. secure the removal of the fencing;
3. making good of the highway;
4. removal of all demolished materials from site; and
5. provision of a replacement 1.2m high fence.