

BOROUGH OF KETTERING

Committee	Planning Committee	Item	Page 1 of 4
Report Originator	Julia Baish	ENFO/2012/00092	
Wards Affected	Desborough Loatlands Ward	Date	
Title	Authorisation for Planning Enforcement Action at 70 Rowan Close, Desborough		

1. **PURPOSE OF REPORT**

To seek authorisation to issue an Enforcement Notice in respect of unauthorised development at 70 Rowan Close, Desborough, shown in bold outline for identification purposes on the site plan attached to this report.

2. **BREACH OF PLANNING CONTROL**

Without planning permission, the construction of a skateboard ramp, measuring approximately 3.05 metres wide, 6.7 metres long with a platform height of 0.92 metres and an overall height of 1.85 metres in the rear garden of 70 Rowan Close, Desborough.

3. **RECOMMENDATION**

That in respect of the breach of planning control described above, the Head of Development Services be authorised to issue an Enforcement Notice pursuant to section 172 of the Town and Country Planning Act 1990 (as amended) requiring the step below to be taken within the specified time period; and for the reasons which are set out below:

3.1 **Step to be Taken**

1. Remove the skateboard ramp from the land.
Time for compliance: 3 months from the date the notice takes effect

3.2 **Reasons For Issuing the Notice**

Construction of the skateboard ramp was substantially completed less than four years ago. In terms of size and degree of permanence the skateboard ramp is of sufficient substance to amount to a built structure and therefore constitutes "development".

The ends of the ramps form raised platforms. A raised platform is "permitted development" only where it is no more than 30cm above the ground. The raised platform elements of the skateboard ramp are 92cm above the ground. Therefore the

structure cannot be regarded as permitted development and accordingly requires planning permission.

Due to the height of the raised platforms the development has an unacceptable impact on the amenity of the adjacent property in terms of overlooking and loss of privacy.

As such the unauthorised development conflicts with the aims and objectives of the following planning policies:

- Policy 13 (I) of the North Northamptonshire Core Spatial Strategy
- Paragraph 17 of the National Planning Policy Framework.

The Council considers that planning permission should not be given, because planning conditions could not overcome these objections to the development.

4. INFORMATION

Site Description

The skateboard ramp is located in the rear garden of 70 Rowan Close, Desborough. The skateboard ramp is located along the southern boundary of the garden adjacent to the garden of the neighbouring property. There is a wooden fence which is approximately 1.8 metres high surrounding the garden and a garage on the eastern edge of the garden.

Planning History

KET/2005/0924 – Approval of Reserved Matters: Residential Development for 121 no. units.

Planning Policy:

National Policies

National Planning Policy Framework

Circular 10/97: Enforcing Planning Control - Legislative provisions and procedural requirements

Development Plan

North Northamptonshire Core Spatial Strategy (CSS)

Policy 13: General Sustainable Development Principles

5. APPRAISAL

The skateboard ramp sits adjacent to the southern boundary of the garden which adjoins the garden of the adjacent property.

In determining whether the skate ramp required planning permission there were two considerations, firstly, whether the skateboard ramp constitutes development as set out in section 55 of the Town and Country Planning Act 1990; and secondly, whether planning permission exists for the development by virtue of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

There are three standard tests established by the courts for ascertaining whether a structure amounts to a building for the purpose of planning control. These are size, degree of permanence and attachment to the ground.

The structure is not attached to the ground however in terms of size and degree of permanence the skateboard ramp is of sufficient substance to amount to a built structure, for example, it could not be readily removed without being dismantled. It therefore constitutes "development".

The structure then needs to be considered against permitted development rights. The ends of the ramps form raised platforms. A raised platform is only "permitted development" where it is no more than 30cm above the ground. The raised platform elements of the structure are 92cm above the ground. Therefore the structure cannot be regarded as permitted development and requires an express grant of planning permission.

The Council has advised the owner that the development is a breach of planning control and that it is unlikely planning permission would be granted due to the impact on amenity of adjacent properties; the developer was requested to remove the ramp within 28 days. No planning application has been submitted and the skateboard ramp has not been removed.

CSS policy 13 seeks to ensure that development does not result in an unacceptable impact on the amenity of neighbouring properties or the wider area, by reasons of issues including noise, vibration, and overlooking.

The unauthorised skateboard ramp is located close to the boundary with the adjacent property and due to the height of the raised platform would result in unacceptable overlooking of the adjacent property.

It is considered that the unauthorised development has an unacceptable adverse impact which conflicts with the Development Plan and therefore it is recommended that enforcement action to secure the removal of the entire structure is authorised. It is considered that no lesser steps are available which would remedy the harm that it causes.

Human Rights Implications

Service of an enforcement notice in this instance is not a breach of the property owner's human rights. Whilst it does affect their property rights they will have an opportunity to challenge the decision by way of an appeal against the enforcement notice and that provides adequate safeguards in accordance with the Human Rights Act 1998 incorporating the European Human Rights Convention.

Background Papers:

Title of Document:

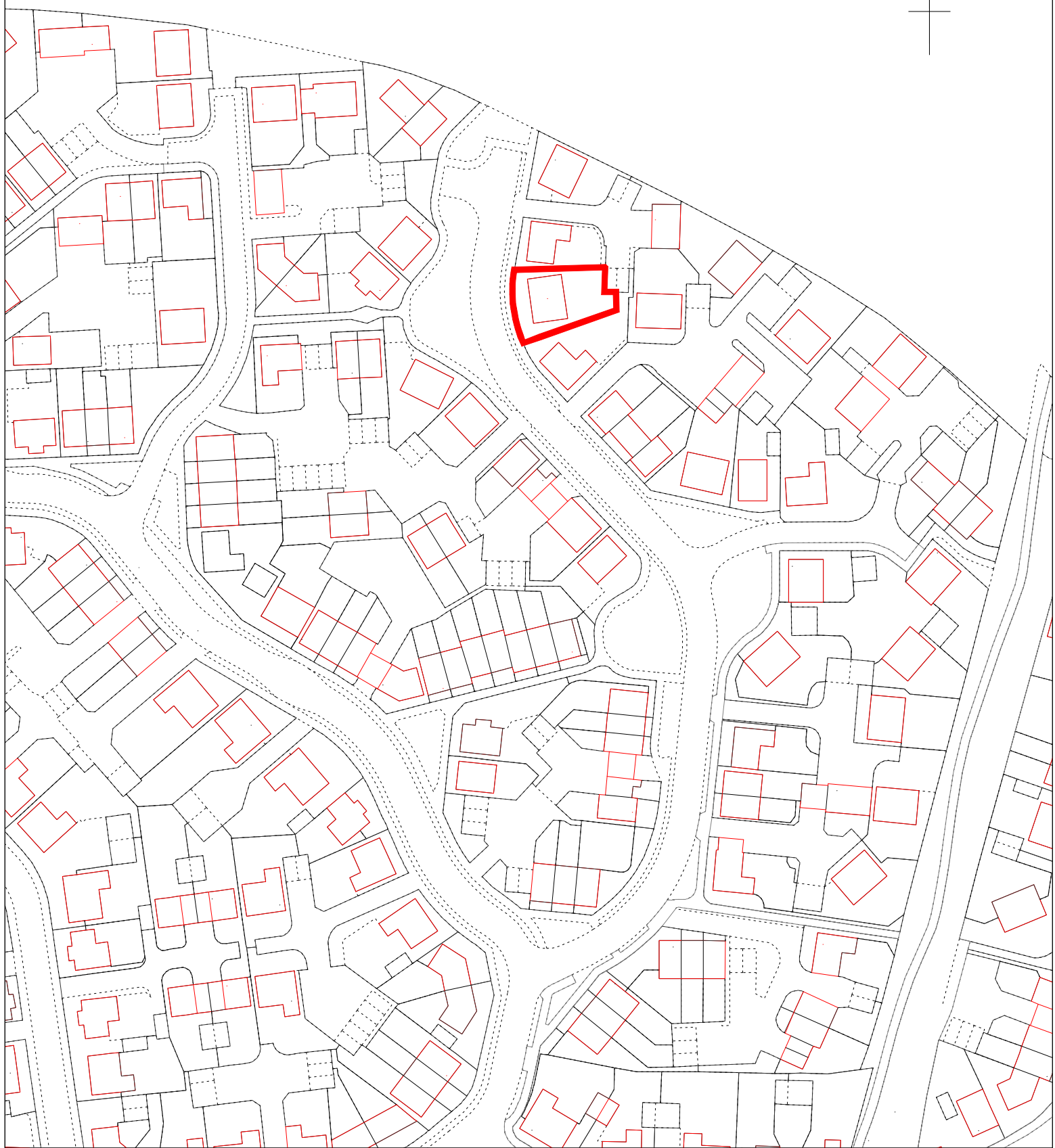
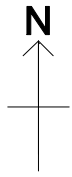
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Contact Officer: Julia Baish

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