

**IN BIRMINGHAM MAGISTRATES
COURT**

Case Number: FD11D06209

BETWEEN

JOHN ALEXANDER MELVIN HEMMING MP

Applicant

-and-

BIRMINGHAM CITY COUNCIL

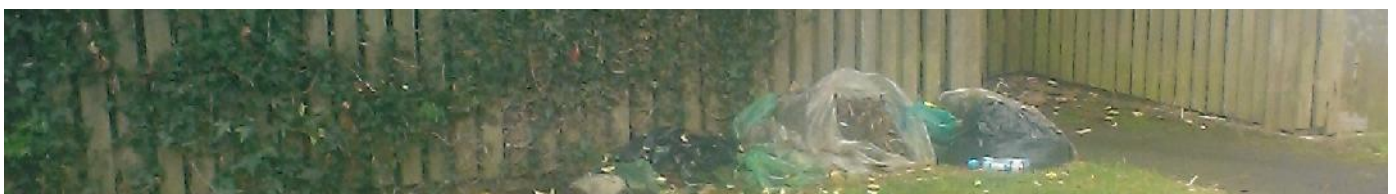
Respondent

**APPLICANT's Second Statement in respect of the
application for a Litter Abatement Order.**

1. I, John Alexander Melvin Hemming MP, MA(Oxon), FRSA, of 87 Church Road, Birmingham B13 9EA, am the applicant in this application. The facts in this statement come from my personal knowledge.
2. On 9th October 2014 together with Councillor Neil Eustace I went out to check the situation in terms of the clearing of flytipped green and other waste. At around 10.15am whilst in Masham Close we noted a green city council refuse vehicle collecting green waste.
3. I therefore took a photograph of the waste that they had just cleared at 10.17am having previously photographed this waste at 10.06 (the photos are below)



4. These photographs with their time stamps are evidence that the defendant had instructed its operatives to clear rubbish before the hearing and that the defendant accepts implicitly that had it not cleared the rubbish then a litter abatement order would have been granted.
5. Interestingly the operatives did pick up another dump of rubbish that had not been reported in Masham Close whilst ignoring many others that they passed. (it has now gone)



6. Prior to our encounter with the refuse vehicle we had noted that the council had made a stab at clearing up some of the rubbish although it was unclear when apart from the fact that it was after the council had been notified of the rubbish/litter as part of these proceedings.
7. We had noted previously that the Council had made an attempt to clear up the worst location that we had notified them of previously. This area is Nooklands Croft and previously it looked like this. (photos from 24th September)



8. Damage had been done to the grass because of the rubbish remaining there for such a long time (demonstrating that the council had not fulfilled its statutory duty) A photograph was taken of this as well as of the Easternmost part of Nooklands Croft which the council left covered in rubbish.



9. Previously we had noted a number of dumps of rubbish that had not been cleared. Some of these were notified to the council as part of these proceedings (as Nooklands Croft was - see Skeleton

Argument from City Council (Paragraph 34—*"the worst I saw was Nooklands Croft"*) and those in The Lea.



10. Others were noted that had not been reported to the council as part of these proceedings. Such as Whittington Oval and The Radleys



11. The applicant, however, decided to go back to his constituency office and deal with other issues having re-arranged his schedule to enable him to check things later in the day when the refuse operatives had finished their last minute clear-up.

12. On the way back to his office he drove through Yew Tree Lane and photographed the below two dumps.



13. The Council may make the point that these were not notified as part of these proceedings. However, it is clear that the council has been made aware of both of these

piles. That is because they both have stickers on them which have been placed there by agents of the local litter authority. Note the grass as well.



14. The applicant took a photograph of Franks Way on both 24th September and early on 9th October. Unsurprisingly this was cleared at some stage later on 9th October.



15. The applicant also wishes to exhibit photographs of the bottom of Masham Close on 24th September and 9th October. (first on 24th, 2nd two on 9th)



16. Whilst photographing this particular pile of rubbish (it is to be noted that it is just in front of a “no flytipping sign”) the applicant was approached by one of his constituents who informed him that she had been paying to get this site cleared. It is to be noted, however, how awful the decayed bags had become as a result of the council’s inaction. At the time the applicant left Masham Close he saw the Council’s refuse collection vehicle

reversing up to clear this pile and assumed that later that day he would find it has been cleared. Which was the case.

17. In touring the area later in the day numerous dumps of rubbish were seen including 96,132, 59, 67 147 and 152 Stuarts Road, B33. Also 382 Hob Moor Road was seen. These make it clear that the constituency continues to be defaced by litter and refuse. Most of these sites were not photographed, but some key sites were photographed and details of these with the reasoning follow.

18. The site where the rubbish at 351 Garretts Green Lane was photographed to further indicate the damage that is done to the grass by leaving the rubbish for a long time (see the example of Nooklands Croft)



19. The site of rubbish at 2 Blakenhale Road—which previously was not reported— appears to the right. This is a common example of how bags of flytipped green waste deteriorate and end up as just a mess. There are many many sites like this.



20. This location near 211 Lea Hall Road was photographed. Although this site was not reported in these proceedings it was reported by the applicant on 17th September 2014 to the department as a separate process.



21. The rubbish in front of 186 Lea Hall Road was photographed. It is accepted that this has not been reported by the applicant to the city council prior to this document. It is further accepted that this rubbish has not been stickered. However, it is not hidden out of the way and gives a good example of how messy things have got as a result of the local authority's decision not to remove fly tipped green waste in a proper manner. It is defacing the area.



22. The following is just another example from Lea Hall Road. In this instance about 127. Not stickered, not reported to the local authority.



23. The following is an example of Stickered rubbish that it is likely that the refuse truck passed by on the way to Masham Close, but did not pick up. It has not been reported by the applicant although obviously someone else has reported it as the council has stickered it.

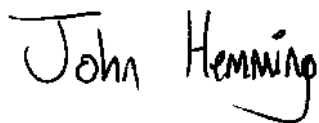


24. This is an example of rubbish at the junction of Clements Road and Debenham Road. This was reported to the local authority in these proceedings as item 94 on 29th September. (see second exhibit)



25. There are many many more dumps of flytipped rubbish that continue to deface the Yardley Constituency as at 9th October 2014. Many of these have decayed in the way the Blakenhale Road example above demonstrates. However, it would take more than a day to find them all.

26. I believe that the facts in this witness statement are true.

A handwritten signature in black ink that reads "John Hemming". The signature is written in a cursive style with a large 'J' and a long, sweeping underline.

Signed

Dated 9th October 2014