



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

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**Report of:** Director of Regeneration and Development Services

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**Date:** 01 December 2015

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**Subject:** Enforcement Report

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**Author of Report:** Abby Wilson

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**Summary:** To inform committee members of a breach of the Planning Regulations and to make recommendations on any further action required.

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### **Reasons for Recommendations**

Officers consider that the UPVC windows are an inappropriate modern material and of poor design in any conservation area and as such are contrary to policies BE5, BE15, BE16 and BE17 of the Unitary Development Plan and CS74 OF THE Core Strategy for Sheffield.

### **Recommendations:**

That authority be given to the Director of Regeneration and Development Services or Head of Planning to take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the removal of the UPVC windows on the front elevation at 16 Moor Oaks Road.

The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control

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### **Background Papers:**

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**Category of Report:** OPEN

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## ENFORCEMENT REPORT

### Unauthorised Replacement UPVC windows at 16 Moor Oaks Road in the Broomhill Conservation Area.

#### 1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to inform Committee Members of a breach of planning control and to make a recommendation on any further action required

#### 2. BACKGROUND AND LOCATION

- 2.1 16 Moor Oaks Road is a traditional mid 19<sup>th</sup> Century stone built 2 storey terrace property. Moor Oaks Road is situated within the Broomhill Conservation Area and is a Housing Area as defined in the Unitary Development Plan. The property has been subjected by the Local Planning Authority to the Article 4 (1) Direction and permitted development rights have been removed.

- 2.2 The property is used as a House in Multiple Occupation for students. A complaint was received from a local resident, concerned that traditional timber sliding sash windows had been replaced with uPVC, in breach of the Article 4 Direction.

- 2.3 The original good quality, traditionally proportioned timber sliding sash windows in the front bay and front elevation first floor windows have been replaced with uPVC frames. The Article 4(1) Direction removes the right to replace windows.

- 2.4 The owner of the site was contacted to advise him of the breach and how to remedy the situation. The owner responded to state he was complying with instruction from Private Housing Standards (PHS). A review from PHS had highlighted several changes that would be required to bring the property up to a good quality to attain a housing license. The written recommendations of PHS refer to the installation of UPVC windows. The owner believed they were cooperating by complying with all the requirements set out by the Council's Private Housing Standards department.

- 2.5 Although the recommendations of Private Housing Standards specify UPVC windows in their letter, the literature also includes caveat which states '*All work to be carried out in line with current building regulations and all necessary planning and building control permissions should be in place.*'

- 2.6 Officers advised the owner that the windows needed to be replaced with timber sliding sash, however, given the circumstances that had led to the breach of planning control, a generous timescale to allow the owner to resolve the situation. The owner had agreed to do the work and stated that they did not wish to make a

formal complaint regarding the advice from PHS. Since the last correspondence with the owner and his wife in August 2014, no further correspondence has been received and the uPVC windows remain in situ.

### 3. RELEVANT PLANNING HISTORY

3.1 There is no relevant planning history relating to these properties.

### 4. ASSESSMENT

4.1 Policy Issues - The property is set within a Housing Area and the Broomhill Conservation Area. Relevant policy therefore includes Unitary Development Plan policies BE5, BE15, BE16 and BE17.

4.2 In March 2009, the Core Strategy Policy Document was adopted and this forms part of the Sheffield Development Framework. It is considered that it is in accordance with the principles of the National Planning Policy Framework. Core Strategy policy CS74 is therefore also relevant to the assessment of this application.

4.3 UDP policy BE5 states that any development will be high quality and well designed and of a scale and nature that is appropriate to the site that fits comfortably with their surroundings, without being detrimental to the visual amenities of the area. Similarly, policy CS74 of the Core Strategy further reiterates the need for high quality designs and strengthens the Local Planning Authority's position regarding the preservation of Sheffield's built heritage.

4.4 Policy BE15 Areas and Buildings of Special Architectural or Historic Interest, says that development that would harm the character or appearance of Conservation Areas will not be permitted. Policy BE17 Design and Materials in Areas of Special Architectural or Historic Interest, requires a high standard of design using traditional materials with Policy BE16 Development in Conservation Areas, stating that development in Conservation Areas is required to preserve or enhance the character and appearance of that Conservation Area.

4.5 The Broomhill Conservation Area Appraisal which was adopted on 17 December 2007 refers to the loss of architectural features and poor quality replacement windows which have spoiled the external appearance of a building and the local street scene. This includes the removal of original timber windows, and their replacement with uPVC.

4.6 The appraisal refers to Moor Oaks Road and its neighbouring streets, stating the area has its own special character and there are many examples of buildings still retaining their original features such as sash windows, timber doors and decorative bargeboards. The general uniformity of the buildings brings a sense of cohesion to the area.

4.7 The uPVC windows which have been installed do not reflect the historic window opening mechanism found in this or other traditional buildings in the conservation area. The thicker frames and glossier finish that result from uPVC and the lack of finesse in the detailing results in the windows being wholly out of keeping with the character and detailing of the host properties, and the wider conservation area.

4.8 There have been a number of UPVC replacement windows within the terrace, however these windows do not set a precedent for further poor quality development, and over time through exercise of planning controls, these windows would be expected to return to timber.

4.9 A recent appeal relating to a property at 24 Ashgate Road which featured uPVC mock sashes and included glazing bars and horns, was dismissed, with the inspector concluding that uPVC windows harm the character and appearance of the host property, failing to preserve or enhance the appearance of the Broomhill Conservation Area. In addition recent appeals at no's 9, 11 and 31 Moor Oaks Road relating to composite replacement doors have also been dismissed on a similar basis.

## 5. SUMMARY OF REPRESENTATIONS

5.1 One representation was received from a local resident, concerned that timber sliding sash windows had been replaced with UPVC in breach of the Article 4 Direction.

## 6. ASSESSMENT OF ENFORCEMENT OPTIONS

6.1 The service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue an Enforcement Notice where there has been a breach of planning control. In this case the notice would require remedial measures to ensure that the perceived harm is remedied. In this case this would be that the uPVC windows facing the highway at 16 Moor Oaks Road are removed. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. Appeal decisions however have supported the Council in taking similar action.

## 7. EQUAL OPPORTUNITIES

7.1 There are no equal opportunity implications arising from the recommendations of this report.

## 8. FINANCIAL IMPLICATIONS

8.1 There are no additional financial implications expected as a result of this report. If an appeal is made against the enforcement notice, costs can be made against the Council if it is shown that they have behaved "unreasonably" in the appeal process. It is unlikely that this will happen as Officers do not consider unreasonable behaviour has occurred. However, in the unlikely event compensation is paid, it would be met from the planning revenue budget.

## 9. RECOMMENDATION

9.1 That authority be given to the Director of Regeneration and Development Services or Head of Planning to take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the removal of the UPVC windows fronting the highway at 16 Moor Oaks Road.

9.2 The Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.



Before



After

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