

## DEVELOPMENT SERVICES

REPORT TO WEST & NORTH  
PLANNING AND HIGHWAYS  
AREA COMMITTEE  
4 DECEMBER 2012

### ENFORCEMENT REPORT

#### UNAUTHORISED USE OF OUTBUILDING AS A VEHICLE REPAIR GARAGE AT THE REAR OF 7 SOUTHEY HILL, S5.

##### 1. PURPOSE OF REPORT

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

##### 2. BACKGROUND

- 2.1 The building is a single storey brick built building located within the rear yard of number 7 Southey Hill. The building was previously used as bakery. The building is accessed between No. 5 and No. 7 Southey Hill along a narrow drive. The site lies within a Housing Area as designated in the Sheffield Unitary Development Plan (UDP). To the north and west of the property are residential properties and to the south and east of the property is a small shopping area.
- 2.2 Over the last few years a number of complaints have been received regarding the use of the property as car bodywork and repair garage. Previously when the property was investigated it was found that the property was being used as an unauthorised servicing and repair garage. After the threat of enforcement action the use was subsequently stopped.
- 2.3 A new complaint was received in July 2012 stating that the use of the property as a car repair garage had started again. A number of site visits were made and it was noticed that the property had a number of damaged vehicles parked within the building in various state of repair. Officers have not witnessed any painting taking place at the property.
- 2.4 The occupier of the property has said that he is not running a business from this property and only repairs cars for his own personal use. However, after further investigations it appears that the occupier of the building is advertising vehicles and parts for sale.
- 2.5 To establish facts a Planning Contravention Notice (Section 171C of the Town and Country Planning Act 1990) was served on 21 September 2012 to the occupier and 27 September 2012 to the owner

of the property. A Planning Contravention Notice is an information gathering notice requiring information about land ownership and details regarding the current use of the building and surrounding area. The Notice requires the recipient to respond within 21 days of the date of the Notice. To date, no reply has been received from the owner or the occupier regarding the Notice.

### 3. ASSESSMENT OF BREACH OF CONTROL

- 3.1 The property lies within a Housing Area as defined in the adopted UDP. The repair of vehicles is considered as a B2 General Industry Use.
- 3.2 Unitary Development Plan Policy H10 states that the use of the building for general industry in housing areas is unacceptable because such uses harm living conditions for people living nearby. They also attract frequent use of heavy vehicles in housing areas and are liable to cause noise, smells or air pollution.
- 3.3 The property is also adjacent to a Shopping Centre as designated within the UDP. General industry use is considered unacceptable within this area, as this type of use is not compatible with the Centre's shopping function and would harm the environment for people who shop or work nearby.
- 3.4 It is considered that the use of the building as a vehicle repair garage is an inappropriate use in a Housing Area. The use of tools, power equipment, movement of vehicles and other associated activities in close proximity to residential property could be a source of excessive noise and disturbance for the living conditions of the neighbouring residents.
- 3.5 As the building is set back from the road and footpath, this allows for an area for possible parking in front of the building and on the access drive which may result in vehicles being repaired outside. This may further increase the problem of noise and disturbance effecting residents. Furthermore the parking of vehicles on the access drive, and the parking of vehicles on the road and could be detrimental to highway and pedestrian safety.

### 4. REPRESENTATIONS

- 4.1 A number of complaints over the last few years have been received from a local resident regarding the use of the property as a vehicle repair garage. The complainant wanted to know whether planning permission has been granted for this use and also had concerns about the health and safety issues on neighbouring properties when painting and repairing vehicles was taking place.

## 5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 171D of the Town and Country Planning Act, 1990 states: "if at any time after the end of the period of 21 days beginning with the day on which a Planning Contravention Notice has been served on any person, he has not complied with any requirement of the notice, he shall be guilty of an offence".
- 5.2 The information requested in the Notice is essential to ensure effective enforcement action. It is appropriate therefore that Committee considers authorising legal action against the recipient of the Notice for an offence under Section 171D of the Act.
- 5.3 The service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue Enforcement Notices where there has been breach of planning control. In this case the notice would require the cessation of the unauthorised use of the property as a vehicle repair garage and require the removal of all vehicles, tools and equipment in connection with the unauthorised use from the property. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. However it is considered that the Council would be able to defend any such appeal.
- 5.4 A more severe course of action would be to issue a Stop Notice under Section 183 of the Town and Country Planning Act 1990 in conjunction with an Enforcement Notice. In this case it is considered not to be appropriate to serve a Stop Notice as it appears that the use is limited and has not intensified over the last few months. However, this can be kept under review so that if the use intensifies before the Enforcement Notice comes into effect, such a notice could be served to stop the use.

## 6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the recommendations of this report.

## 7. EQUAL OPPORTUNITY IMPLICATIONS

- 7.1 There are no equal opportunities implications arising from the recommendations of this report

## 8. RECOMMENDATIONS

- 8.1 That authority be given to the Head of Development Services or Head of Planning to:
- 1) Institute legal proceedings under section 171D of the Town and Country Planning Act, 1990 against the recipient of the Planning Contravention Notice served on the occupier on the 21

September 2012 and on the owners on the 27 September 2012 for failing to reply and,

- 2) Take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the secession of the unauthorised use of the property as a vehicle repair garage and require the removal of all vehicles, tools and equipment in connection with the unauthorised use from the property.

D Caulfield  
Head of Planning

21 November 2012