

DEVELOPMENT SERVICES

PLANNING AND HIGHWAYS
COMMITTEE
21 May 2013

ENFORCEMENT REPORT

UNAUTHORISED RETENTION OF BUILDINGS AND USE OF LAND
AND BUILDING AS A BUILDERS STORE AND COMPOUND,
WHIRLOW ELMS CHASE, SHEFFIELD S11

1. PURPOSE OF THE REPORT

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. LOCATION

2.1 The site consists of a small residential development of 5 dwellings off Broad Elms Lane. It is located within the Green Belt and is semi-rural in appearance. It is situated on the former Broad Elms School and caretaker's house site.

2.2 The site is open in appearance with boundaries on 3 sides being playing fields and a landscaped buffer strip. Beyond the buffer strip is agricultural land. On the opposite side of Broad Elms Lane are residential properties of two storeys in height.

2.3 The dwellings that have been erected replaced the old school buildings, albeit on a different footprint.

3. BACKGROUND

3.1 Planning approval was originally granted in 2008 for 5 dwelling houses and garages, reference 07/04759/FUL. Subsequent to this there have been 2 more applications relating to the substitution of house types (10/00629/FUL and 11/01022/FUL). These have included amendments to the design of the houses such as the addition of solar panels and conservatories.

3.2 During these planning applications there were a number of representations received. These covered a variety of issues such as increase of traffic in area and the impact/disturbance caused by the development on the nearby protected species.

3.3 The area that is the subject of this report was previously occupied by the school caretaker's house and is shown on all approved plans as a reclaimed landscaped area. Demolition of the caretaker's house was

an important consideration in the assessment of an acceptable level of built form on the site, taking into account the impact of the development upon the Green Belt, and ensuring its open character was maintained. None of the plans on any application show this area as anything but an open landscaped area. Indeed the demolition of the former building was detailed in the following condition (15);

“No dwelling house shall be occupied prior to demolition of the former caretaker’s dwelling house”.

The houses are completed and are occupied. The development is completed apart from the area subject of this report, which is required to be landscaped. The failure to demolish is therefore a breach of condition 15 of 11/01022/FUL.

- 3.4 The developer maintains that he has complied with the wording of the appropriate planning condition. He claims that the boiler house did not form part of the caretaker’s house and therefore as such did not need to be demolished.
- 3.5 It is officer opinion that as the boiler house was attached to the house that occupied the site then, the condition covered all aspects of the building and therefore this would have led to the site being left as indicated on the approved plan.
- 3.6 In addition to the former boiler house, the developer has left the concrete base to the former caretaker’s house; this is being used as the base for parking machinery and plant. At present there are a number of items stored there. These include but are not restricted to a mini digger and piles of building materials. The developer has also erected a low quality fence around the site, along with a line of Leylandi trees. The portion of land and buildings is in effect operating as a builder’s compound/gardeners store for the current and future maintenance of the development.
- 3.7 Schedule 2, Part 4, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) identifies that temporary builder’s compounds, are Permitted Development for the duration of building operations provided that such works require planning permission. In this instance however, the building operations on the site are complete, and it is not considered that the remaining building(s) and compound are Permitted Development.
- 3.8 The planning officer has previously entered into lengthy correspondence with the developer in an attempt to secure removal of the remaining structures and storage without success.
 - 3.8.1 In addition there are additional outstanding planning conditions under 11/01022/FUL that the developer is in breach of. These are:-

Condition 3 – a requirement for the dwellings to be constructed to a minimum standard of Code for sustainable Homes Level 3, and relevant certification to be provided before occupation of the dwellings.

Condition 6 – a requirement to implement an approved landscape plan for the communal areas before occupation of the dwellings. This included the area of the former caretaker's house.

- 3.8.2 The developer responded in October and November 2012 to requests for compliance with the outstanding conditions in two separate letters following the threat of formal enforcement action.

With regard to the condition 3 he notes the need to comply, but since giving this commitment in October 2012, has not provided the relevant certification.

With regard to condition 6 the developer believes this to be complied with and that the Council should find the works satisfactory.

For condition 15 relating to the main subject of this report, the developer explains that he does not consider himself to be in breach of the condition as he has demolished the caretaker's house in its entirety, leaving only the former school boiler house standing. He states it is necessary to retain this on site to accommodate a landscape gardeners store to allow maintenance of the communal grounds, and to house an electric meter for the street lights within the development.

He adds that due to concerns about water flow across the communal grounds some remedial ground works are needed which is further justification for the compound. He offers to paint the boiler house 'drab green' to reduce its impact.

Notwithstanding the developer's argument that the compound is necessary for completion of remedial works, which may be an argument for the compound being Permitted Development, its provision on the site of the former caretakers house is such that it results in a breach of condition 15, and condition 6, and the remedial works would not require planning permission, and the compound cannot therefore be Permitted Development.

4. ASSESSMENT

- 4.1 The retention of the remaining portions of the caretaker's house, and the use of this part of the site as a builder's compound constitutes inappropriate development in the Green Belt which has not been justified by very special circumstances. The development is thereby contrary to Policy GE3 of the Unitary Development Plan, Policy G6A of the Local Plan City Policies and Sites (pre-submission version) and the National Planning Policy Framework (paragraph 88).

- 4.2 Officers consider that the prominent and obtrusive siting, design and appearance of the builder's compound detracts from the open character and visual amenities of the Green Belt and the landscape and street scene in Whirlow Elms Chase. The development is thereby contrary to Policy GE4 of the Unitary Development Plan.
- 4.3 Activity associated with the use of the builder's compound has potential to cause noise disturbance for occupiers of adjacent residential property which would be contrary to Policy C3 of the Local Plan City Policies and Sites (pre-submission version).
- 4.4 The compound and remaining structure are highly visible on entrance to and exit from Whirlow Elms Chase, and appear out of context with the quality and appearance of the neighbouring dwellings.
- 4.5 The failure of the development to comply with condition 3 is such that it cannot be confirmed to be a sustainable development, responding to climate change in compliance with Policy CS64 of the Core Strategy.
- 4.6 The failure of the development to comply with condition 6 is such that significant harm is caused to the appearance of the site on entry to and exit from Whirlow Elms Chase, owing to the absence of a substantial area of tree and shrub planting (included in the approved scheme) and the retained compound structures that appear in its place.

5. REPRESENTATIONS

- 5.1 Complaints were received from the local residents who have moved into the newly built development. The main area of concern appears to be with what was the former caretaker's house. This area is shown on the approved plans as an area that is landscaped and clear of any of the remnants of the previous building.

6. ENFORCEMENT OPTIONS

- 6.1 Section 172 of the Town and Country Planning Act 1990 provides for the service of an Enforcement Notice. In this case such a notice would require the removal of the unauthorised builders' compound including the concrete base, builders store and associated landscaping.
- 6.2 Section 183 of the Town and Country Planning Act 1990, enables the local planning authority to serve a Stop Notice with the service of an Enforcement Notice. A stop notice, (SN), prohibits the carrying out of a relevant activity on the enforcement notice land. The situation at site is stable in that no further works have taken place since initial contact with the owners. A SN is not considered to be necessary at this time.
- 6.3 Section 187A of the Town and Country Planning Act 1990, enables the service of Breach of Conditions Notices (BCN) to ensure compliance with conditions imposed upon a given planning permission. A BCN can

be served under delegated powers in relation to conditions 3 and 6, and will be progressed. If complied with, this would potentially resolve matters regarding the builders compound/store. However, an Enforcement Notice is considered more appropriate to deal with the compound/store as it will deal with any potential ambiguity in the strict interpretation of condition 15, and it is considered that this joint approach will bring a successful conclusion to the outstanding matters on the site.

7 EQUAL OPPORTUNITIES

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

8. FINANCIAL IMPLICATIONS

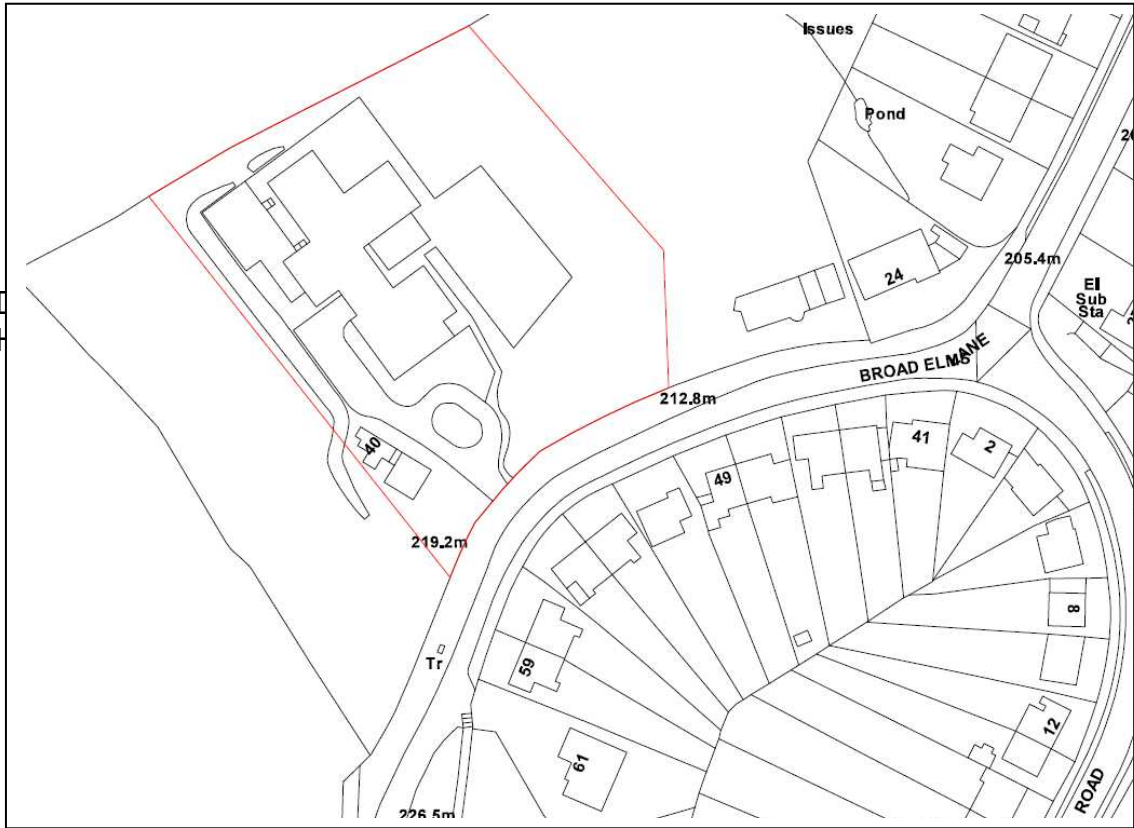
- 8.1 There are no financial implications arising from the recommendations in this report.

9. RECOMMENDATION

- 9.1 That the Director of Development Services or Head of Planning be authorised to take any appropriate action including if necessary, enforcement action and the institution of legal proceedings to secure the complete demolition of remaining caretaker's house buildings, the cessation of the use of the land as a builder's store and compound and full implementation of the landscaping proposals for the site.
- 9.2 The Head of Planning is designated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

SITE PLAN

Whirlow Elms Chase, Sheffield 11



Photograph of the site.



David Caulfield
Head of Planning

21 May 2013

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