



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report



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**Report of:** Director of Development Services

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**Date:** 02.07.2013

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**Subject:** Enforcement Report

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**Author of Report:** Abby Wilson

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**Summary:** UNAUTHORISED UPVC REPLACEMENT BAY WINDOW IN ARTICLE 4 (2) DIRECTION, NETHER EDGE CONSERVATION AREA

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### Reasons for Recommendations

It is considered that the unauthorised new UPVC windows are of an unsatisfactory appearance due to poor design, detailing and use of non traditional materials. The incremental loss of such traditional features threatens the character and appearance of the Conservation Area, and is in direct conflict with the purpose of the Article 4(2) direction.

### Recommendations:

That the Director of Development Services or Head of Planning be authorised to take any appropriate action including the institution of legal proceedings to secure the removal of the unauthorised windows.

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 UPVC REPLACEMENT BAY WINDOW IN ARTICLE 4 (2) DIRECTION, NETHER EDGE CONSERVATION AREA

#### 1. PURPOSE OF THE REPORT

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 23 Briar Road is a traditional three storey stone built terraced property within the Nether Edge Conservation Area and a Housing Area as designated in the Unitary Development Plan. The property is also within the Nether Edge Article 4(2) Area.
- 2.2 The property is a rental property comprising of 3 separate flats.
- 2.3 A complaint was received 1<sup>st</sup> November 2012 stating a UPVC bay window had been fitted at the property within the last few days.
- 2.4 An officer visited the site the day of the complaint and found the works to the new bay window were being completed. The window fitter was present at the time of the site meeting. They confirmed the UPVC windows were to replace existing rotting wooden frames. The window fitter provided the telephone details of the owner.
- 2.5 The Owner was contacted the same day to ensure no further windows were replaced and explained that there are no permitted development rights for alterations to flats or dwelling houses fronting the highway in the area due to the Article 4(2) Direction. The Owner expressed his objections stating he had five properties in the Nether Edge area however he had never received notification of the Article 4(2) Direction. It was advised that an application was needed for more appropriate replacement windows although the owner stated his intention to apply to authorise the new UPVC windows.
- 2.6 The owners son in law contacted planning enforcement to obtain the details of the breach. He advised officers that he would now be dealing with the matter due to the owners ill health and would be making the application to authorise the existing UPVC replacement bay windows against officers advice. The details of the breach of control were sent in writing to the son in law. It was highlighted that as the property was

subdivided into flats, an application was required regardless of the Article 4 (2) Direction, as flats do not benefit from permitted development rights.

- 2.7 The son in law requested a hard copy of a planning application form which was delivered in December 2012 to his home address.
- 2.8 A reminder was sent in March 2012 offering assistance as no reply had been received.
- 2.9 No response has been received at the time of this report and the windows remain unauthorised.

### 3. ASSESSMENT

- 3.1 Unitary Development Plan Policy BE5 'Building Design and Siting' states that good design and the use of good quality materials will be expected in all new and refurbished buildings and extensions.
- 3.2 Unitary Development Plan Policy BE15 'Areas and buildings of special architectural or Historical Interest' states that development which would harm the character or appearance of a Conservation Area will not be permitted.
- 3.3 Unitary Development Plan Policy BE16 'Development in Conservation Areas' states that in Conservation Areas permission will only be given for proposals which contain sufficient information to enable their impact on the area to be judged acceptable and which would preserve or enhance the character or appearance of the Conservation Area.
- 3.4 Unitary Development Plan Policy BE17 'Design and Materials in Areas of Special Architectural or Historic Interest' requires a high standard of design using traditional materials.
- 3.5 Unitary Development Plan Policy H14 'Condition on Development in Housing Areas' states that developments should be well designed and in scale and character with the neighbouring buildings.
- 3.6 The previous windows as shown in Appendix B were timber framed with 3 upper panels with top hung openings above 3 non opening larger glass panels below. The replacement windows are now all white UPVC with 2 top hung openings with a central glazing bar, this can be seen in appendix C and D.
- 3.7 It is considered that the unauthorised new UPVC windows are of an unsatisfactory appearance due to the poor design and detailing. The traditional styles of windows in this area were timber sliding sash. One of the most important aspects of these are the top sash that projects over the bottom sash and the method of opening which has not been replicated in these replacements. This has the effect of a flush appearance. The second important characteristic is the slender box frame. The replacements have lost this slender detail and have a much heavier chunky appearance to the frame and use inappropriate UPVC

material. Examples of appropriate window detailing can be seen in the photos, (appendices E and F) which have been taken from neighbouring properties on Briar Road. As the installed windows have a non-traditional method of opening this is further exacerbated when the windows are left in the open position.

- 3.8 The Nether Edge Conservation Area Appraisal was adopted in 2005 and refers to the loss of original architectural features and poor quality replacements which have eroded the quality of the Conservation Area. This was one of the reasons for the introduction of the Article 4 direction in late 2005, which limits certain permitted developments.
- 3.9 The incremental loss of such traditional features threatens the character and appearance of the Conservation Area, and is in direct conflict with the purpose of the Article 4(2) direction. The aim of the direction is to halt the erosion of traditional character, by exerting greater control, and to gradually restore it with suitable alterations that enhance the appearance of the Conservation Area. The works undertaken are typical examples of the alterations identified by the Conservation Area Appraisal as having a negative impact on the conservation area.
- 3.10 Given the circumstances the windows fail to preserve or enhance the character of Nether Edge Conservation Area and as a result are contrary to the aims of the policies BE5, BE15, BE16, BE17 and H14 of the Unitary Development Plan.
- 3.11 The photo images below show the property in question before and after the changes and clearly demonstrate that the unauthorised windows are not appropriate for the property and their appearance is deemed not to be in keeping with the character of the Conservation Area.

#### 4. REPRESENTATIONS

- 4.1 One anonymous complaint was received about the replacement UPVC window.

#### 5. ASSESSMENT OF ENFORCEMENT OPTIONS

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 remedial measures to ensure that the perceived harm is remedied. In this case this would be that the ground floor bay windows on the elevation facing Briar Road are removed. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. However recent appeal decisions have supported the Council in taking similar action.

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

7. FINANCIAL IMPLICATIONS

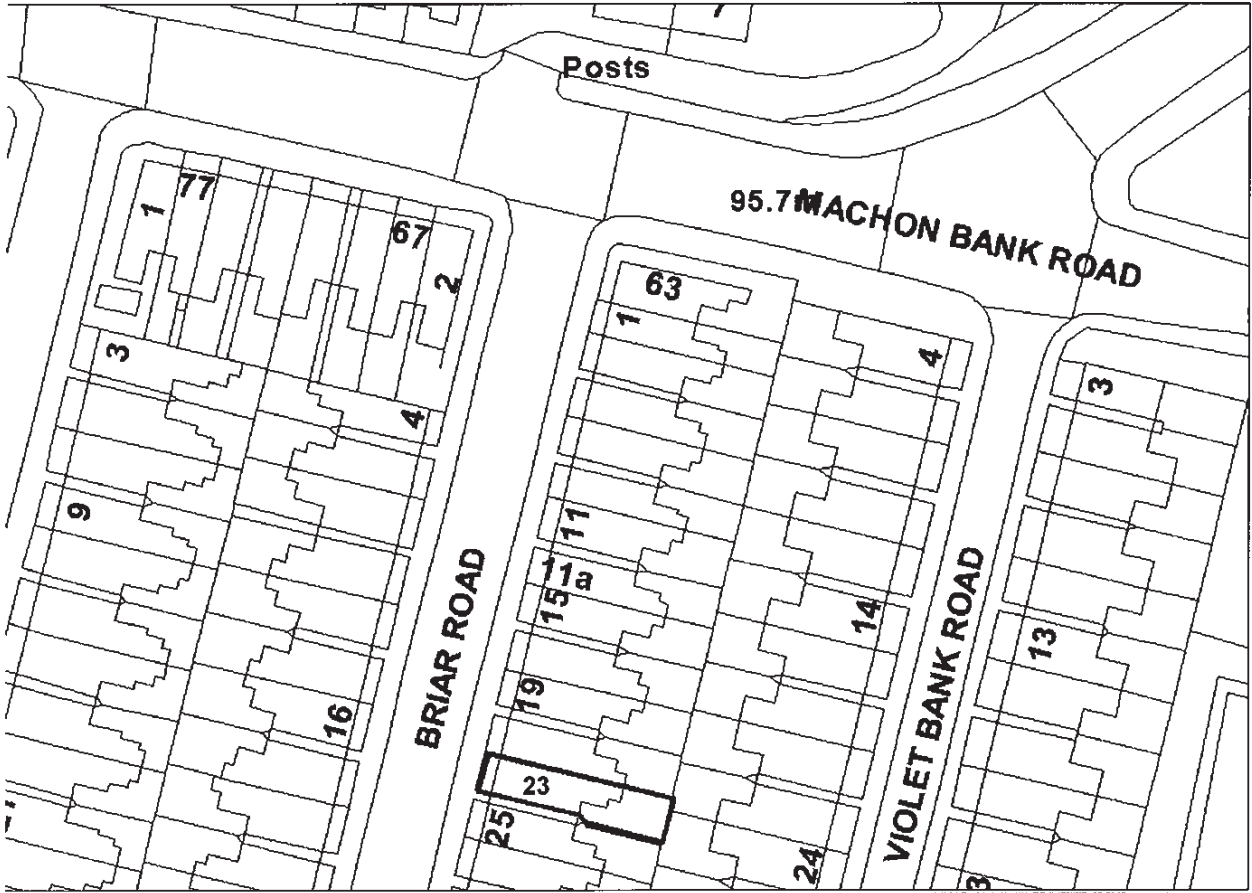
7.1 There are no financial implications arising from the recommendations in this report.

8. RECOMMENDATION

8.1 That authority be given to the Director of 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 unauthorised windows.

SITE PLAN & PHOTOS

Appendix A - Number 23 Briar Road Outlined in Black





Appendix B – Photo of 23 Briar Road, 2009



Appendix C - 23 Briar Road with replacement UPVC windows





Appendix D - 23 Briar Road, close up of UPVC replacement window





Appendix E - example of traditional bay windows on Briar Road

