

ENFORCEMENT REPORT

UNAUTHORISED ERECTION OF A BUILDING FOR THE PURPOSE OF A DWELLINGHOUSE, REAR OF 33 AND 35 NOTTINGHAM CLIFF, SHEFFIELD, S3 9GU

1. PURPOSE OF THE REPORT

The purpose of this report is to inform Board Members of a breach of planning control and to make recommendations on any further action required.

2. BACKGROUND

- 2.1 A complaint was received concerning the erection of a large structure with a flat roof at the back of 33 and 35 Nottingham Cliff. Notes and photographs taken during an officer visit to site on 27th August 2013 to investigate were cross referenced with existing aerial photos and other records. This revealed that an entirely new building had been recently constructed on the small plot of land.
- 2.2 The owner of the land stated that this development is merely the repair and modernisation of an existing single storey house but this was disputed by officers.
- 2.3 A retrospective planning application, (ref.13/03341/FUL, refused under delegated powers on 3/12/13), set out a proposal, described as alterations to an existing single storey building to be used as a house. The submitted drawings also indicate the alteration and renovation of an existing building. This is inaccurate; evidence clearly shows this development to be a substantial new build.
- 2.4 Records indicate the site did once contain two small single storey buildings, (independent of the adjacent terraced houses at 33 and 35 Nottingham Cliff). The sole access to the site is via a 2m wide path at the side of no.35. Only parts of the external walls remained from these old buildings. Neither of them had any internal walls or structures remaining and neither had a roof or a front elevation wall. At the time the unauthorised development began they no longer existed having been substantially demolished / removed many years ago. The owner still maintains that this development amounts to the refurbishment of an existing house.

- 2.5 Records also show planning applications in 1949 and 1950 to use the land and buildings as builder's yard and upholstery workshop respectively, (both refused). There is no record of any residential use on the site and indeed the buildings were very small, one storey high and unlikely to make a practical living space. The larger of the two buildings had a floor area of approximately 16m². The smaller building measured approximately 9m². These buildings were 4m apart from each other, separated by an open yard. There is no record of any other buildings having existed on the land and there were no further planning applications until the recent application ref:13/03341/FUL.
- 2.6 Old Ordnance Survey plans show the buildings described above; a small building at the north end of the land and a smaller building in the south east corner of the site. The attached plan, based on the OS, shows this. Aerial photos show this depiction to be out of date. Other photographic evidence indicates these were single storey.
- 2.7 Some remaining external walls appeared to have remained to mark and enclose the site boundary but there were no front elevations remaining. Just prior to the unauthorised development taking place the land was open and had not contained any complete or even partially complete buildings for over 20 years. Aerial photographs from 1989 show the entire site to be open land. Subsequent aerial photos dated 1999 and 2009 also show the land as open and greened over by vegetation.
- 2.8 The last use of the land is not known. Unsubstantiated information from the complainant is that occupiers of adjacent houses grew vegetables there.

3. ASSESSMENT OF THE BREACH OF CONTROL

- 3.1 Terraced houses border the site; nos.217 and 219 Nottingham St to the east, which are at a lower level and separated from the site by a high wall and nos. 33 and 35 Nottingham Cliff to the west, which are at a slightly lower level and overlooked by the site. To the south, on a higher level, is a recreation ground separated from the site by a high retaining wall. The back yards of terraced houses lie to the north.
- 3.2 The development stands uncompleted due to enforcement intervention. The assessment covers both the proposed house as shown in application 13/03341/FUL and the impact of the new building structure alone without the use as it hasn't yet been occupied as living accommodation and some of the features required for a house are yet to be installed.
- 3.3 Policy H10 of the Unitary Development Plan, (UDP), "Development in Housing Areas" sets out the preferred, acceptable and unacceptable uses in these areas. Housing (C3) is defined as the preferred use and

therefore the general principle of the proposal in the application is acceptable, subject to compliance with Policy H14.

- 3.4 Policy H14 “Conditions on Development in Housing Areas” sets out a range of parameters which development must adhere to in order to be acceptable, these are set out below:
- New buildings and extensions are well designed and in scale and character with neighbouring buildings
 - The site would not be over-developed or deprive residents of light, privacy or security, or cause serious loss of existing garden space which would harm the character of the neighbourhood.
 - It would provide safe access to the highway network and appropriate off- street parking and not endanger pedestrians
- 3.5 Supplementary Planning Guidance on Designing House Extensions is also relevant and expands on the principles of Policy H14. This development is not a house extension but the general principles apply to new dwellings as to their impact on amenity of neighbouring property.
- 3.6 Sheffield Development Framework, Core Strategy Policy CS74 “Design Principles” is also relevant and amongst other things requires development to respect the scale, grain and context of the areas in which they are proposed.
- 3.7 Design. The drawings submitted under 13/03341/FUL show the ‘existing plans’ with the main body of the building in situ prior to the recent building works. The plans show all boundary walls to have already been in place (albeit at a slightly lower height to the front and rear) with two fully enclosed outbuildings under pitched roofs and a central ‘yard area’.
- 3.8 The accuracy of the existing plans can be shown to be incorrect due to the clear evidence described elsewhere in this report. Based on the information available it is known that whilst the site was largely surrounded by boundary walls there were no complete buildings.
- 3.9 The reality of the development consists of the erection of a new building covering practically all of the land beyond the access path. The remains of the existing boundary walls have been used as part of the outer walls of the new build. These walls have been increased in height and the gap between the former building footprints in-filled. The outer walls have been smooth rendered. A flat roof has been constructed across the whole of the new building and two windows inserted into the front elevation. Plans submitted indicate further work is proposed, with the installation of steps and a lift to the entrance door.

- 3.10 The predominant character of the immediate area is terraced houses with small rear yards, some of which benefit from outbuildings. The new building, (proposed house), is considered out of keeping with the overall scale and grain of the surrounding area and introduces an undesirable form of back-land development. The appearance and impact of the new development differs significantly from the previous site boundary walls and could set an unwelcome precedent for similar development in the locality. Such development is contrary to the requirements of UDP Policy H14 (a) and Core Strategy Policy CS74.
- 3.11 Amenity. The development is a compact residential accommodation proposal comprising an entrance lobby, bathroom, kitchen and shared living/bedroom area. Only two windows are provided for the entire accommodation, one of these is to the kitchen area and the other is shown to be obscurely glazed and serves the bedroom/living room area. The level of glazing in relation to the room sizes is minimal. As one of these windows will be obscure, the living accommodation will not have sufficient light or outlook and will not provide suitable living conditions for occupiers.
- 3.12 The development does not include any outdoor amenity space, again this would result in unsatisfactory living conditions for occupiers. This is a significant indicator that the plot is overdeveloped.
- 3.13 The building is accessed via the 'driveway', (2m wide path), which runs adjacent to no.35 Nottingham Cliff. It is considered that the use of the site for a new dwelling as opposed to its previous use will result in a significant increase in both vehicle and pedestrian movement to and from the site. Such movement would generate noise disturbance and together with the presence of lights from the windows of the living space, the proposed house would be harmful to the living conditions of occupiers of nos 33 and 35, which stand just 6m away.
- 3.14 Although the proposed dwelling is no closer to the rear elevation of properties on Nottingham Cliff than the original common boundary walls, the height of these walls has increased and the nature of the use would change, if the building was occupied. The development is between 3.5 and 6m away from the rear windows of nos. 33 and 35. It is estimated that the height of the walls has increased by a maximum of 1.2m. In relation to the properties at the rear on Nottingham Street the height of the wall has increased by approximately 0.5m. Generally it is considered that the increase in height of the building so close to the rear elevations of residential properties will result in a general feeling of enclosure and over dominance to occupiers.
- 3.15 The window to the proposed living/bedroom area is shown to be obscure glazed; however the kitchen window is not and will offer a view over the amenity area of nos.33/35. Although the living area window is obscure it will still give the perception of being overlooked to the

residents on Nottingham Cliff. This is significantly different to the simple brick boundary wall previously in place.

- 3.16 Highways. Details submitted with the application indicate the driveway to the side of the property will provide space for two vehicles but at just 2m wide the drive is not wide enough to accommodate this. This would lead to more on-street parking, however there appears to be adequate capacity for this, without detriment to highway safety or amenity. The site is also close to high frequency bus services. There are no highway objections.
- 3.17 Summary. The new building and its proposed use as a house are considered to be unacceptable as it creates an unacceptable form of back-land development which is out of keeping with the general scale, grain and character of the surrounding area. It is overdevelopment of the plot and provides inadequate living accommodation in terms of general amenity, light and outlook for future residents. Also, the development will result in unacceptable noise, disturbance, overbearing presence and loss of privacy to existing residents at 33 and 35 Nottingham Cliff. The scheme is contrary to the requirements of UDP Policy H14 and Core Strategy Policy CS74. The application 13/03341/FUL was refused on 3rd December 2013

4. REPRESENTATIONS

- 4.1 A specific complaint has been made to the enforcement team from a member of the public. There were no representations in response to the planning application 13/03341/FUL.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 171C of the Town & Country Planning Act 1990, ('the Act') provides for the service of a Planning Contravention Notice, (PCN). It requires information about the breach of control and property ownership. It also gives an opportunity to meet with officers to make representations. Such a meeting can be used to encourage regularisation and/or discussions about possible remedies where harm has occurred. In this case planning permission has been refused.
- 5.2 Section 172 of the Act provides for the service of an enforcement notice, (EN). In this case such a notice would require the removal of the unauthorised building, which as yet has not been occupied as a house.

6. EQUAL OPPORTUNITIES

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

7. FINANCIAL IMPLICATIONS

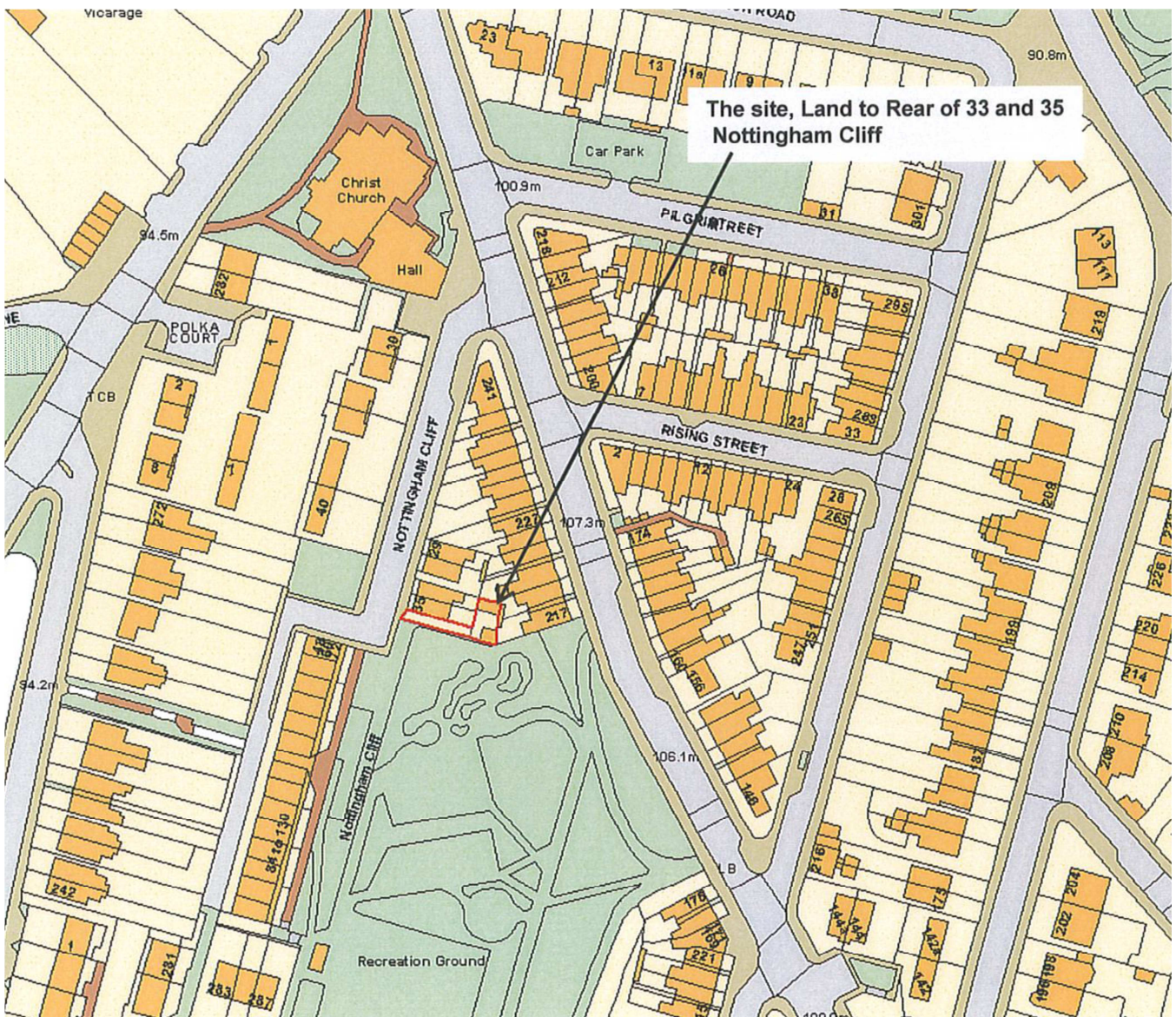
7.1 There are no financial implications arising from the recommendations in this report.

8. RECOMMENDATION

8.1 That the Director of Regeneration and 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 remove the unauthorised building from the land.

9.2 The Head of Planning be 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.

SITE PLAN & PHOTOS





Maria Duffy
Interim Head of Planning

12 December 2013

This page is intentionally left blank