



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Regeneration & Development Services

Date: 3 March 2015

Subject: Enforcement Report
166 Abbeydale Road

Author of Report: Fiona Sinclair

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

Reasons for Recommendations:

To remedy the breach of Planning Control

Recommendations:

That the Director of Regeneration & 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 removal of an unauthorised canopy at 166 Abbeydale 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

Background Papers:

Category of Report: OPEN

ENFORCEMENT REPORT

ERECTION OF AN UNAUTHORISED TIMBER CANOPY ON THE FRONT OF 166 ABBEYDALE ROAD S7

1. PURPOSE OF REPORT

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

2. BACKGROUND

- 2.1 166 Abbeydale Road is a traditionally built two storey terraced property being a mixture of retail use at ground floor and residential at first floor/attic level; and located on the junction between Abbeydale Road and Chippinghouse Road; with the Abbeydale Road street scene, being predominantly commercial in character.
- 2.2 The property is located within a local shopping centre, as identified in the UDP and is currently vacant.
- 2.3 A complaint, from a Planning Enforcement Officer, was received on 26 March 2013 concerning the erection of a timber and plywood canopy that has been fixed above the property's display window on the elevation facing Abbeydale Road.
- 2.4 Correspondence was entered into with the owners of 166 informing them that, planning permission is required to erect a canopy on the front of retail premises but that because of the detrimental effect to the amenities of the street scene, it is unlikely that it would be granted for the one that had been built.
- 2.5 The owner responded to this to this letter, and although they agreed to remove the canopy, this work was not carried out and as a result Section 330 Notices were served on both the occupiers and the owners on 20 February 2014.
- 2.6 To date no attempt has been taken by the owner to remove the canopy as requested in the original correspondence dated 12 April 2013.
- 2.7 The retractable canopy at 164 Abbeydale Road (shown in photographs 1 and 2) has also been investigated but evidence has been found

which suggests it has been in place for over 4 years, and is therefore immune from enforcement action.

- 2.8 Three other canopies have recently been reported to Committee for enforcement authority, resulting in a recent granting of planning permission for a more acceptable retractable canopy at 755 – 757 Abbeydale Road.

3 ASSESSMENT OF BREACH OF CONTROL

- 3.1 The property is located within the Local Shopping Area as defined within the UDP.
- 3.2 Unitary Development Plan Policy S10 'Conditions on Development in Shopping Areas' states that new development must not cause residents or visitors in any hotel, hostel, residential institution or housing to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health and safety and be well designed and of a scale and nature appropriate to the site.
- 3.3 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 and all extensions should respect the scale, form, detail and materials of the original building.
- 3.4 Although canopies are often a traditional feature of shops in this area, they tend to be the retractable metal and canvas fascia type that one associates with shops of this type and age. The function of the current canopy is to protect food displayed for sale from the elements. A traditional canopy, of the kind described above, could achieve that aim without harm to the street scene.
- 3.5 However, the canopy, in question, is a rigid timber frame structure with a plywood and felt roof, and is a permanent feature on the property's forecourt making it visually intrusive. It also does not respect character of the property to which it is attached, or that of other properties in the immediate vicinity from a point of view of the materials used in its construction. Therefore the canopy is considered to have a detrimental effect on the visual amenities of the street scene and contrary to policy BE5 and S10 of the UDP.
- 3.6 The photographs, below show the property in question and demonstrate the visual harm is unacceptable in this area.

Photograph 1



Photograph 2



4. REPRESENTATIONS.

- 4.1 One complaint, from a local architect, has been raised with regard to the detrimental visual impact the canopy creates to the street scene.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 171C of the Town and Country Planning Act provides for the service of a Planning Contravention Notice. The notice requires information about the breach of planning control and property ownership. It also gives an opportunity for the recipient to meet with officers to make representations. Such a meeting could be used to encourage regularisation by retrospective application and/or discussions about possible remedies where harm has resulted from the breach. In this case it is clear that the canopy is in breach of planning control and as such it is not considered that the serving of a PCN would be of any value.

- 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 canopy to make good the harm caused by the unauthorised development. There is a right to appeal to the Planning Inspectorate, against the service of an Enforcement Notice. However, it is considered that the Council would be able to successfully defend any such appeal.

6 EQUAL OPPORTUNITIES

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

7 FINANCIAL IMPLICATIONS

- 7.1 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 awarded against the Council if it is shown that they have behaved “unreasonably” in the appeal process, it is uncommon that this will happen. However, in the unlikely event compensation is paid, it would be met from the planning revenue budget.

8.0 RECOMMENDATIONS

- 8.1 That the Director of Regeneration & 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 removal of the unauthorised canopy at 166 Abbeydale Road.
- 8.2 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.

Site Plan



Maria Duffy
Head of Planning Service

29/02/2015