



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 24 March 2015

Subject: Enforcement Report

Author of Report: Khalid Mahmood

Summary: Unauthorised use of yard for the storage of scaffolding materials, general building materials and machinery and the unauthorised erection of gates at the rear of 784 Attercliffe Road

Reasons for Recommendations:

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

Recommendations:

That the Director of Regeneration and Development Services or Head of Planning be authorised to take all necessary steps, including, enforcement action, service of a Stop Notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the yard for a scaffolding and storage business and the removal of all scaffolding materials associated with the business and all other building materials and machinery from the yard together with the unauthorised gates.

The Head of Planning, in liaison with the Chair of this Committee, be authorised to vary the action to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

Background Papers:

Category of Report: OPEN

24 MARCH 2015

ENFORCEMENT REPORT

UNAUTHORISED USE OF YARD FOR THE STORAGE OF SCAFFOLDING MATERIALS, GENERAL BUILDING MATERIALS AND MACHINERY AND THE UNAUTHORISED ERECTION OF GATES AT THE REAR OF 784 ATTERCLIFFE ROAD.

1. PURPOSE OF THE REPORT

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

2. BACKGROUND AND BREACH

2.1 The property is a three storey former public house building with a rear yard which is accessed from Worksop Road. The building is located in a Local Shopping Centre and an Area of Special Character as designated in the Unitary Development Plan (UDP). The property is also within close proximity of the former Don Valley Stadium site.

2.2 A complaint has been received regarding the storage of scaffolding in the yard and the safety concerns of the yard being used in this way. Officers have visited the site and found that the rear yard is being used as a separate business by a scaffolding company for the storage of scaffolding and other building materials and machines along with a scaffolding lorry. Since the initial visit a large gate has also been erected at the entrance to the yard.

2.3 The owner and the occupier have been contacted and have been asked to stop this use and a Section 330 Notice has also been served to the owner of the property. To date, no response has been received with regards to the Section 330 Notice and the use has not stopped.

2.4 The occupier of the yard has stated that this use as open storage has occurred for more than 10 years. Enforcement action in respect of all breaches of planning control is subject to time limits – 4 years for operational development and 10 years for a change of use, the onus is on the owner or occupier to prove this. The occupier has been invited to produce this evidence. However, to date no evidence has been submitted. The Planning Service have carried out an investigation and found photographic evidence dating back to 14 December 2010

showing a clear site with no scaffolding or any other building materials being stored on this site.

- 2.5 The area around the site is a mixture of commercial and residential uses. The rear of the neighbouring property at 774 Attercliffe Road whose rear yard is adjacent to 784 is also being investigated for change of use to a car repair business.
3. ASSESSMENT OF BREACH OF CONTROL
 - 3.1 The site is located within a Local Shopping Centre and an Area of Special Character as designated in the UDP.
 - 3.2 The use of the rear yard for the storage of scaffolding would be a change of use of the rear yard from a yard in connection with the public house to a separate use as open storage which falls within Use Class B8.
 - 3.3 Unitary Development Plan Policy S7 'Development in District and Local Shopping Centres' states that Open Storage is an unacceptable use 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, work or live nearby.
 - 3.4 Unitary Development Plan Policy S10 'Conditions on Development in Shopping Areas' states that uses should not cause residents or visitors to suffer from unacceptable living conditions, including air pollution, noise, other nuisance or risk to health or safety and also states that new development should be well designed with buildings of a scale and nature appropriate to the site. It should also provide a safe access to the highway network and appropriate off-street parking and not endanger pedestrians.
 - 3.5 Fences or gates above one metre in height when adjacent to a highway used by vehicles (including the footpath of such a highway) require planning permission.
 - 3.6 Unitary Development Plan Policies BE5, BE17, BE18 and Sheffield Development Framework Core Strategy Policy CS74 all seek to ensure good quality and design of the development which compliments the scale and character of the area.
 - 3.7 It is considered that the use of the rear yard for the storage of scaffolding and building materials and machinery is an unacceptable use in this Local Shopping Centre Area and Area of Special Character. The loading and unloading of materials and equipment to and from the back of vehicles could be a source of excessive noise and disturbance and the storage also harms the appearance and character of the area. Furthermore large vehicles reversing in and out of the yard near a junction and with poor visibility of the footpath and road is a potential hazard for pedestrians and other road users, and with the impending

sensitive uses close to this site, this type of use would be considered unacceptable. If a retrospective planning application was to be submitted the application would be refused.

- 3.8 It is also considered that the height, location and appearance of the gate is out of keeping with the character of the area.
- 3.9 The photographs below show the property in question and illustrates that the use and the erection of the gates is unacceptable in this area from a visual amenity perspective.



4. REPRESENTATIONS

- 4.1 One complaint has been received regarding the use as a scaffolding yard and the safety of the materials that have been stored around the property causing potential danger to members of the general public. The Health and Safety Executive have been informed of the safety concerns raised.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue an Enforcement Notice. In this case such a Notice would require the cessation of the use of the yard as for open storage and remove all the materials and machinery associated with the storage business and all other materials and machinery and the removal of the gates. There is a right of appeal to the Planning

inspectorate against the service of an Enforcement Notice. However, it is considered that Council would be able to defend any such appeal.

- 5.2 Section 183 of the Town and Country Planning Act 1990 provides for the service of a Stop Notice in conjunction with an Enforcement Notice (S172). The Stop Notice would take effect within 3 days following the date of service, and an offence would be committed for failure to comply with the Stop Notice. In this case it is not considered appropriate to serve a Stop Notice unless the use intensifies before the Enforcement Notice comes into effect; such a Notice could be served to stop the use. A successful appeal against a Stop Notice can lead to costs against the Council for any losses incurred because work was stopped, but only if there was found to be no breach of planning control, or the Notice was withdrawn.

6 EQUAL OPPORTUNITIES

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

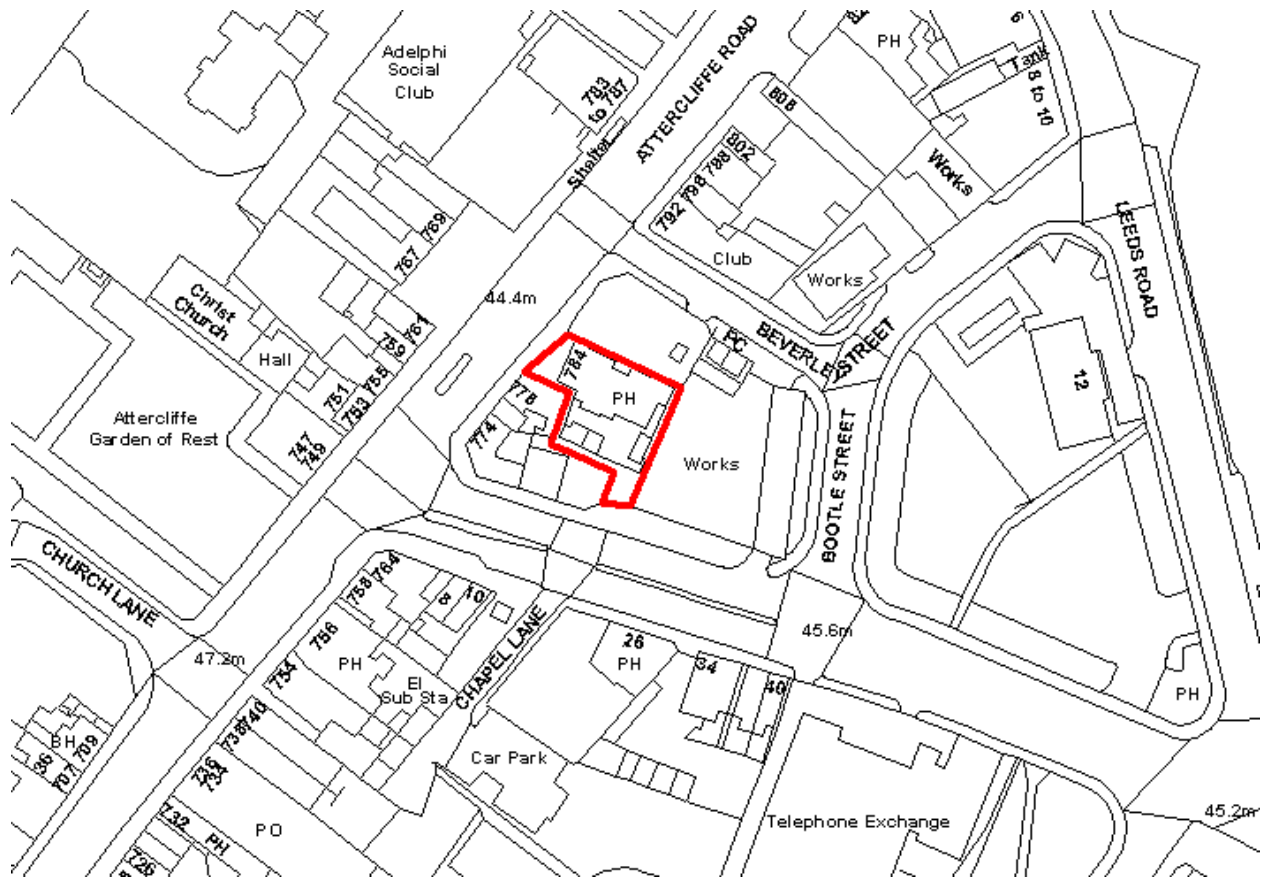
7. FINANCIAL IMPLICATIONS

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

8. RECOMMENDATION

- 8.1 That the Director of Regeneration and Development Services or Head of Planning be authorised to take all necessary steps, including, enforcement action, service of a Stop Notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the yard for a scaffolding and storage business and the removal of all scaffolding materials associated with the business, all other building materials, machinery from the yard and the unauthorised gates.
- 8.2 The Head of Planning, in liaison with the Chair of this Committee, be authorised to vary the action to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

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Maria Duffy
Interim Head of Planning

13 March 2015