



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Regeneration & Development Services

Date: 22 December 2015

Subject: Enforcement Report
43 Moorthorpe Rise

Author of Report: Jonathan Baker

Summary: Unauthorised extension of rear garden into Green Link Corridor protected by planning condition

Reasons for Recommendations:

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

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 cease the unauthorised change of use and extension into a Green Link Corridor, return the land to its former condition and reinstate the means of enclosure.

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

1.1 UNAUTHORISED EXTENSION OF REAR GARDEN CURTILAGE INTO GREEN LINK CORRIDOR PROTECTED BY PLANNING CONDITION.

2. 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.

3. BACKGROUND

3.1 Complaints were received about the unauthorised extension of garden curtilage into a Green Link Corridor between gardens to aid the flow of a watercourse and allow wildlife to pass through the estate and which is protected by a planning condition.

3.2 At the initial site visit it was observed that the previous fence marking the boundary with the corridor had been removed and the rear garden had been extended out by approximately three metres down its entire length into the corridor and right up to the edge of the watercourse. A raised decking area with patio furniture had also been erected.

3.3 A letter was sent to the householder informing him that this was a breach of planning control and was unacceptable. He was advised to reinstate the fence, remove all development and return the land back to its previous condition within 28 days.

4. ASSESSMENT OF THE BREACHES OF CONTROL

4.1 Under the Town and Country Planning Act (1990) (The Act) an extension of residential garden space into public open space or on to land with other uses requires planning permission for change of use.

4.2 This particular Green Link Corridor was created under a condition of the original planning permission by The Secretary of State.

4.3 This extension of garden curtilage requires planning permission, however, as this is extending on to a Green Link Corridor protected by a planning condition and extends beyond the natural garden boundary

line consistent to neighbouring gardens, any application is likely to be refused.

5. POLICY

5.1 Section GE10 of the The Green Environment section of the Unitary Development Plan (UDP) 'Green Network' states –

The Green Network contains corridors along which wildlife can move and live. The continuity of such features is important to many wildlife species: the more isolated the site the more restricted the range of species able to colonise it. The Green Network plays an important role in linking habitats and allowing the movement of plants and animals in both rural and urban areas.

A Network of Green Corridors and Green Links will be:

- (a) protected from development which would detract from their mainly green and open character or which would cause serious ecological damage;*

Definition:

Green Link' – strips of open space within the built-up area which are usually narrower than Green Corridors. They may only be several metres wide (e.g. railway embankments, road verges, hedgerows, small streams) or they may be more extensive

5.2 Section GE17 of the The Green Environment section of the Unitary Development Plan (UDP) 'Rivers and Streams' states -

As part of the development of the Green Network, all rivers and streams will be protected and enhanced for the benefit of wildlife and, where appropriate, for public access and recreation. This will be done by:

- (b) requiring that any development involving alterations to the channels of rivers and streams be designed in a way which is sympathetic to nature conservation and archaeological interests;*

5.3 Section LR5 of the The Leisure and Recreation section of the Unitary Development Plan (UDP) 'Development In Open Space Areas' states -

Development in Open Space Areas will not be permitted where:

- (c) it would significantly detract from the green and open character of the Green Network; or*
- (d) it would make an open space ineffective as an environmental buffer;*

6. REPRESENTATIONS

- 6.1 A local resident and an elected member have complained about the extension of curtilage being out of keeping with the area and interfering with the area conditioned to be set aside

7. ASSESSMENT OF ENFORCEMENT OPTIONS

- 7.1 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 extension of the garden and the reinstatement of the means of enclosure; and for the land to be returned to its previous state.

8. EQUAL OPPORTUNITIES

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

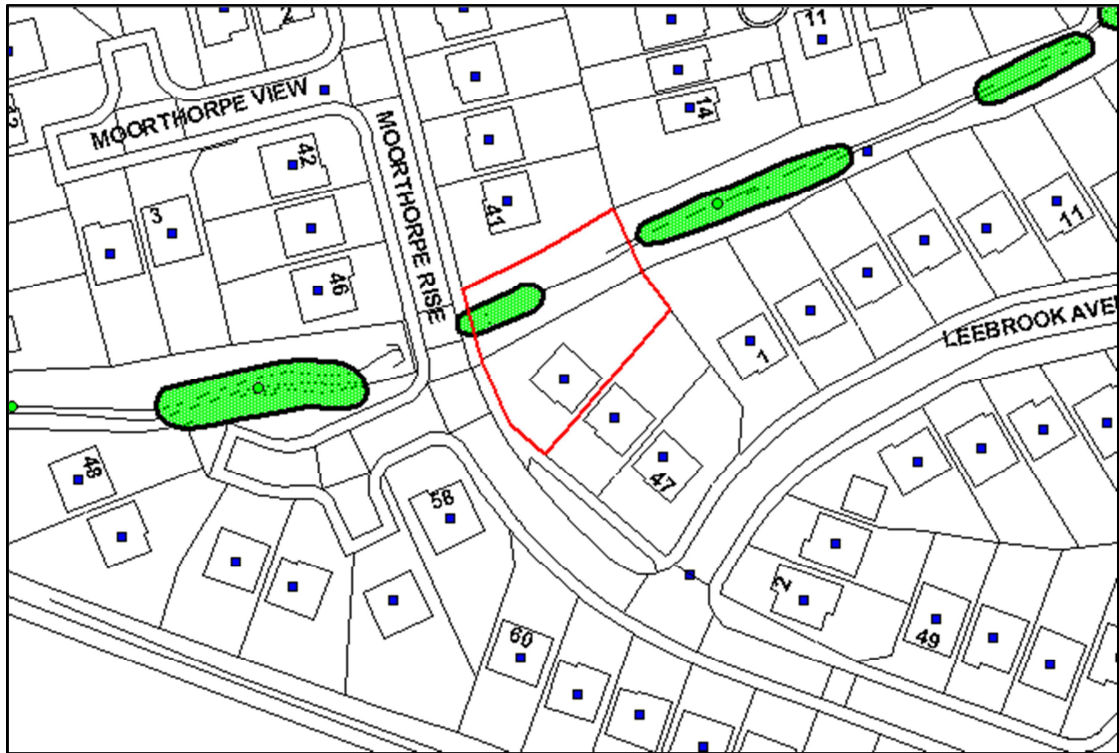
9. FINANCIAL IMPLICATIONS

- 9.1 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.

10. RECOMMENDATION

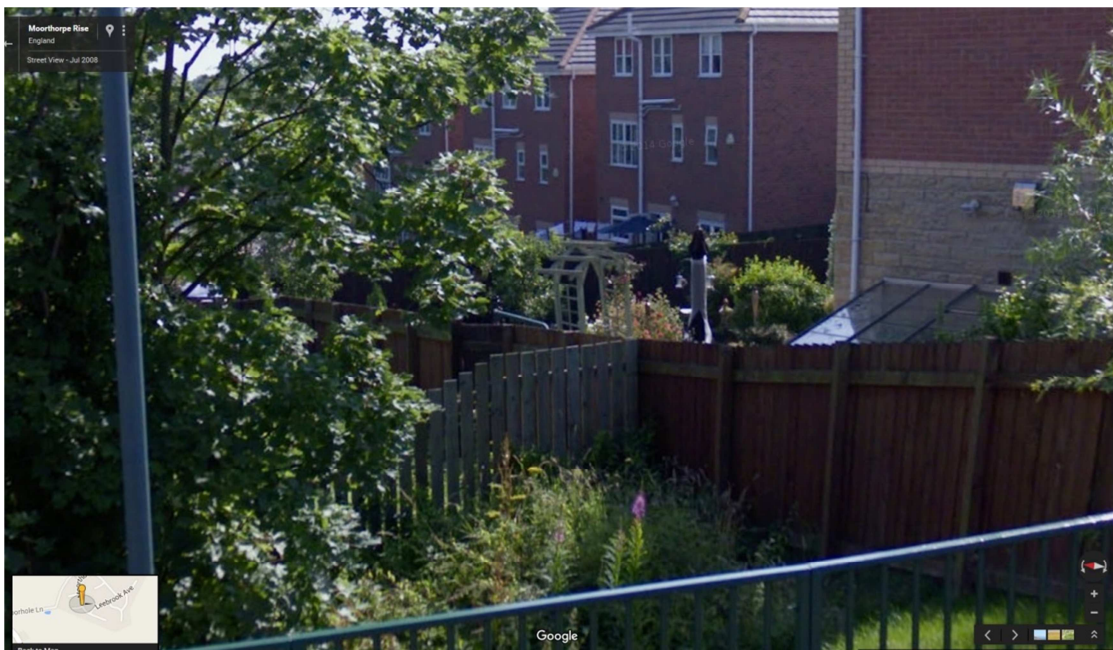
- 10.1 That the Director of Regeneration and Development Services or Head of Planning be authorised to take any appropriate action including if necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised curtilage extension and the reinstatement of the means of enclosure.
- 10.2 That the Head of Planning, in liaison with the chair of the committee, be authorised to vary the action in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

SITE PLAN



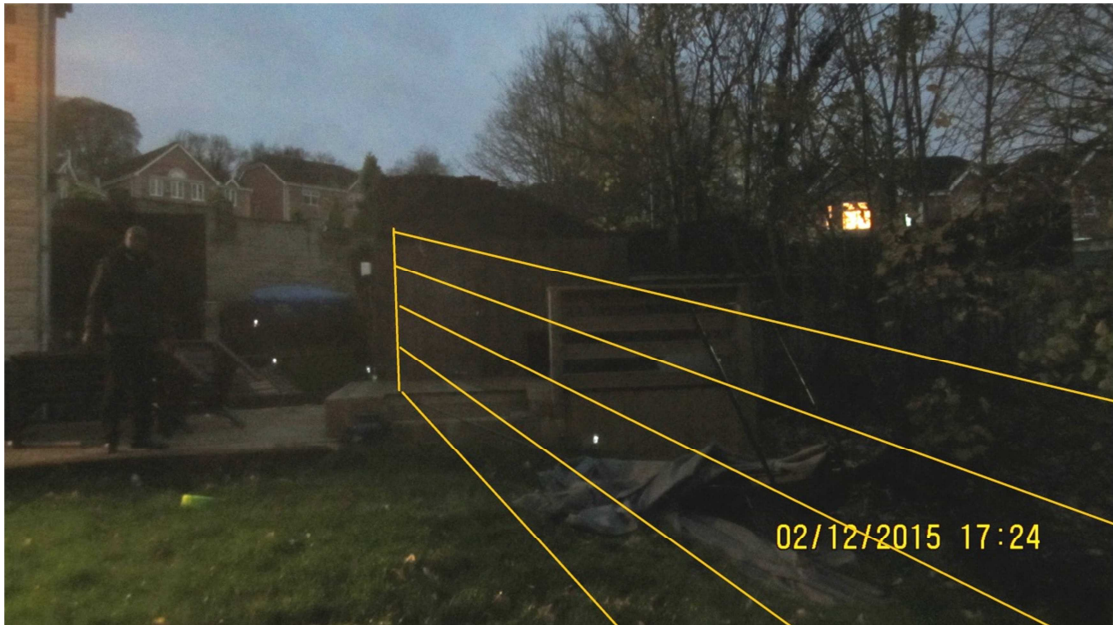
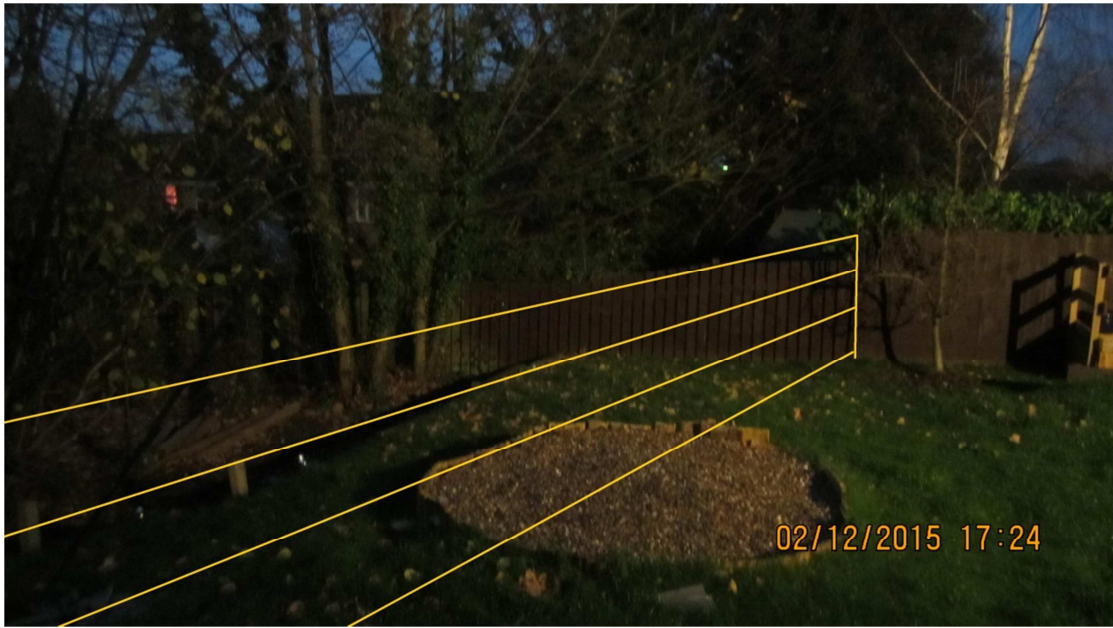
PHOTOGRAPHS - BEFORE & AFTER

Before



Showing the original line of the fence

After



Yellow lines represent the original fence line

Maria Duffy
Interim Head of Planning

22 December 2015