



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

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**Report of:** Director of Development Services

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**Date:** 23 February 2016

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**Subject:** Enforcement Report, 3 Nether Edge Road

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**Author of Report:** Lee Brook

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**Summary:** The purpose of this report is to inform members of a breach of planning control and to make recommendations on any further action required.

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### Recommendations

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 forecourt structure.

The Head of Planning is designated 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 ERECTION OF A FORECOURT CANOPY, 3 NETHER EDGE 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

- 2.1 The Planning Service received complaints about a new forecourt canopy being erected that potentially caused a safety hazard & highlighting safety issues and the design of the structure being out of keeping and visually harmful to the conservation area.
- 2.2 The initial visit confirmed that the structure is development that requires a planning application. It is mostly a timber structure, consisting of a raised timber floor, posts and roof frame with plastic panels serving as the roof covering. One of the complaints was that steps, (made of timber), had been incorporated into the structure, making it potentially difficult for elderly customers.
- 2.3 The owner was advised in writing that the forecourt structure is unauthorised and that a planning permission to retain it would be unlikely to receive support from officers. The owner did contact officers and an application for this structure, amongst other things such as a change of use for the property was discussed. However an application has not been submitted. A follow up letter was sent and the owner has now passed the matter on to her new tenant. The tenant, only occupying the property since the end of November, has contacted officers and is cooperating to try to find a solution. This contact was made quickly following the reminder letter, when this report was already prepared. No firm plan has been submitted yet but discussion is at the initial contact stage. The forecourt structure was erected before the current tenant occupied the property.
- 2.4 It is worth acknowledging that prior to this canopy structure being erected there were two smaller canvas canopies attached to the front of the shop. These were immune from enforcement action having been present for many years. They had become shabby and rather ugly and

the removal of these was a benefit to the visual appearance of the property. Underneath the former canopies there was a portable table / stall, which had fruit, vegetables etc displayed on it. The assessment of the unauthorised replacement structure follows.

### 3. ASSESSMENT OF THE BREACHES OF CONTROL

- 3.1 This property and the surrounding area is within the Nether Edge Conservation Area. Relevant local policy documents are the National Planning Policy Framework, the Sheffield Unitary Development Plan, (UDP) and the Sheffield Plan Core Strategy. The site is designated within the adopted Sheffield Unitary Development Plan, ('UDP'), as small local shopping centre and is within an Area of Special Character. The development is assessed in relation to the specific relevant policies that follow.
- 3.2 The National Planning Policy Framework requires sustainable development to go ahead. Policies specific here, include the requirement for good design and for conservation of, and enhancement of the historic environment.
- 3.3 UDP policy BE5 requires that good design and the use of good quality materials will be expected in all new buildings, with Policy CS74 of the adopted Core Strategy reiterating that high quality development will be expected, which would respect, take advantage of and enhance the distinctive features of the city. Policy S10 mirrors BE5 and requires, amongst other things, that development be well designed and of a scale and nature appropriate to the site and comply with Policies for the Built environment.
- 3.4 The site is within the Nether Edge Conservation Area and an Area of Special Character, therefore this development needs to be assessed against policy BE16 whereby "permission will only be given for proposals which would preserve or enhance the character or appearance of the Conservation Area", and policy BE17, that requires a high standard of design and traditional materials for alterations to building and policy BE15, which states that "Development which would harm the character or appearance of Listed Buildings, Conservation Areas or Areas of Special Character will not be permitted."
- 3.5 Policy BE7 of the UDP concerns Design of Buildings used by the Public and requires that new development provides for people with disabilities safe and easy access and that access should be improved as opportunities arise to enable equality of access to all users. Prior to this development, two (original) stone steps provided access to the shop with a hand rail and grab handle to either side. The new timber structure provides shallow steps from the pedestrian pavement edge to the level deck floor. The deck is level with the shop threshold. The recommendation in this report is for the removal of the current

structure. Any proposed replacement / alternative structure will need to be assessed against access policies.

- 3.6 The forecourt structure or canopy as it could be called serves as a display area for perishable goods displayed on shelves and tables. This concept is acceptable in principle and is not out of keeping with a shopping area. However this structure is considered to be inappropriate owing its ramshackle design and appearance. Green timber posts form the frame of the structure, which is largely open sided with a sloping roof consisting of green timber rafters covered with a simple transparent plastic sheeting to form a roof. Part of the structure has a black plastic gutter at the front of the roof with a black plastic downpipe. The structure is fastened to the front elevation of the shop and has a timber deck floor, (up to about 30cm above original ground), with timber steps. The deck creates a level forecourt area. Photos are included at the end of the report. Since that photo was taken the deck has been screened by flower boxes to hide the 30cm gap between the ground and the deck and hand rails have been added to stepped part of the structure.
- 3.7 The shop itself is identified as a building of historic interest, (as are all but one of the other surrounding buildings in the immediate area), in the character assessment of Nether Edge Conservation Area and it has retained this original character. Any proposed forecourt canopy should be designed in keeping with this character. This particular structure is prominent and cuts across architectural features on the front of property, adversely impacting on its character. The development is considered to be contrary to development plan and national policies stated above and harmful to the visual amenities of the area.
- 3.8 A planning application for a forecourt canopy at 9 Nether Edge Road in 2015 resulted in a good quality scheme, with a simple structure which re-uses old iron gas lamp columns of and has low side panels of painted iron and decorative end panels to support the glass roof. This has not been built yet but is just one example of what can be achieved to respect the conservation setting. In principle a different design could be acceptable in this case, provided the design is of high quality.

#### 4. REPRESENTATIONS

- 4.1 Two complaints have been received. One was concerned solely with access issues, linked to safety for elderly people crossing the new timber steps. The other complaint referred to the negative visual impact of the structure on the area.

#### 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 suspected breach 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 any person/s with an interest in the land are known and regularisation of the development is not the course of action being recommended.

- 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 structure.

## 6. EQUAL OPPORTUNITIES

- 6.1 There are equal opportunity benefits arising from this report. In co-operation with the business owner an improved access design could be achieved if the structure is replaced, subject to planning permission.

## 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 secure the removal of the forecourt structure.
- 8.2 The Head of Planning is designated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

PHOTO & PLAN



PHOTOGRAPHS



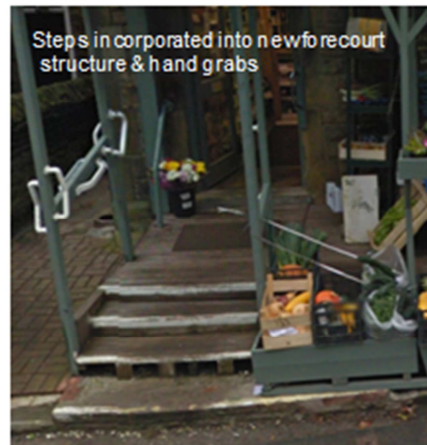
Current unauthorised structure described in this report



Previous unauthorised canopies, now removed.



Existing stone steps / hand rail / grab



Steps incorporated into new structure & hand grabs

Maria Duffy  
Interim Head of Planning

23 February 2016

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