



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

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**Report of:** Director of Regeneration & Development Services

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**Date:** 16 September 2014

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**Subject:** Enforcement Report  
755-757 Abbeydale Road Sheffield

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**Author of Report:** Fiona Sinclair

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

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### **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 755-757 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

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### **Background Papers:**

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**Category of Report:** OPEN

## **ENFORCEMENT REPORT**

### **ERECTION OF AN UNAUTHORISED TIMBER AND PERSPEX CANOPY ON THE FRONT OF 755-757 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
  - 2.1 755 and 757 Abbeydale Road are traditionally built two storey terraced properties 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 Thirlmere Road; and located in an area that is predominantly commercial in character.
  - 2.2 The property is located within a local shopping centre, as identified in the UDP and is currently being used as a grocery shop.
  - 2.3 Abbeydale Road is in an area of the city that has been targeted by the Council's Planning Enforcement Team with the aim of improving the general area with enforcement action being taken in 2007 to remove 3 unauthorised canopies, and more recently in 2012 to remove a number of illegal advertisements. A further report appears elsewhere on this agenda relating to additional illegal advertisements.
  - 2.4 A complaint, from a Planning Officer, was received, on 5 March 2013 concerning the erection of a 2.4m high timber and Perspex canopy that had been attached to the property's front elevation.
  - 2.5 Correspondence was entered into with the owner of 755-757 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.
  - 2.6 The owner responded to the letter and a meeting was arranged on 8 April 2013, to discuss this matter and to discuss types of canopy that would be deemed as being acceptable in order to meet the needs of the business. Unfortunately the owner failed to attend this meeting.

2.7 To date no attempt has been taken by the owner to remove the canopy as requested in the original correspondence dated 26 March 2013, or to submit an application for an alternative and more acceptable canopy.

### 3 ASSESSMENT OF BREACH OF CONTROL

3.1 The property is located within the Central 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 timber post and frame structure with a Perspex 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 and its overall size. 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.



4. REPRESENTATIONS.

4.1 There are no representations.

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 the owner has been given the opportunity to discuss this in a meeting, 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.

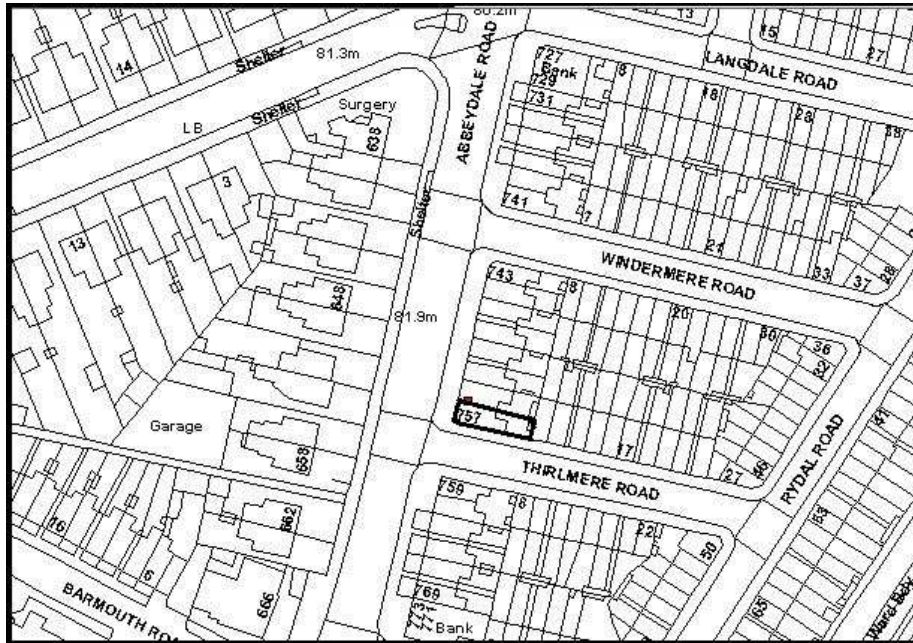
## 7 FINANCIAL IMPLICATIONS

- 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 755-747 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

04/09/2014