



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

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**Report of:** Director of Development Services

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**Date:** 9<sup>th</sup> December 2014

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**Subject:** Enforcement Report

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**Author of Report:** Brendan Gillespie

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**Summary:**

Unauthorised conservatory erected on front elevation of 209 Stannington Road, facing directly onto the Highway

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**Reasons for Recommendations**

The conservatory is considered to have a detrimental effect on the visual amenities of the street scene and contrary to policy H14 of the UDP.

**Recommendations**

That authority be given to the Director of Regeneration and Development Services or Head of Planning to take all necessary steps, including enforcement action and the institution of legal proceedings, if necessary, to secure the removal of the Upvc clad, front facing conservatory.

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

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## **ENFORCEMENT REPORT**

### **209 STANNINGTON ROAD, SHEFFIELD S36 5FT: UNAUTHORISED DEVELOPMENT – CONSERVATORY/PORCH ERECTED ON FRONT ELEVATION OF HOUSE**

#### **1. PURPOSE OF REPORT**

- 1.1 To inform Members of the situation at the above address and make recommendations on the appropriate form of action.

#### **2. BACKGROUND**

- 2.1 A complaint was received stating that the land owner had erected an extension porch-like structure to the front of his property without first obtaining planning permission from the Council.
- 2.2 An Enforcement Officer visited the site and inspected the extension.
- 2.3 The officer's observations confirmed that the upvc cladded porch/conservatory did not enjoy permitted development rights.
- 2.4 A subsequent search revealed that no planning application had been received for this development and Planning Officer opinion was that any such application would not be looked upon favourably as the development was forward of the front elevation of the main dwellinghouse, and its general appearance detracts from the amenity of the area and the street scene in general.
- 2.5 Following the site inspection, a letter was sent to the owner, on the 3<sup>rd</sup> June 2013, requesting that he remove the unauthorised structure, advising that it hadn't got the required planning permission, and because of its positioning and the materials used in its construction, Officers would be unlikely to support any subsequent retrospective application, if one was to be submitted.
- 2.6 Following this request, the owner contacted the department, via email, and confirmed he would not be removing or applying for planning permission for the structure, but would be prepared to reduce the size of the structure to within the permitted development measurement requirements allowed for a front porch.
- 2.7 On receipt of this email, an email was sent in response, on 1<sup>st</sup> July 2013, advising the owner to submit details of the structure's proposed new size so that if the alterations fell within allowable permitted development

requirements, a realistic, fair timeframe to complete the works could be agreed

- 2.8 It was clear from the details submitted that the structure, even if it was to be reduced in size, would still not meet permitted development requirements. The proposed new size was quoted to be 2.8 metres long x 800mm wide x 2.8metres wide but would still sit within 2 metres of the boundary of the dwellinghouse and the highway. This was explained to the owner via email and over the telephone; that the structure even if it was to be rebuilt to the above specification, would still be seen as unacceptable in planning terms and would have to be removed. The owner was asked to confirm his intentions regarding the matter as soon as possible.
- 2.9 A letter, together with a Section 330 Notice was sent to the owner on 2<sup>nd</sup> October 2014, advising the owner that despite numerous requests to remove it, and assurances given that it would be removed without the need to report the matter, formally, it was noted the unauthorised structure was still in place. The Notice (Section 330 of the Town and Country Planning Act) required the owner to provide information about any person/s with any interest in the property, within 21 days, and he was advised that failure to comply with this Notice was a criminal offence. He was also advised that if the unauthorised structure to the front of the building was still in place beyond the 21 days, the matter would be reported to the next available Planning Committee. To date, the structure is still in place and no further contact or information has been received from the owner of the property.

### 3 ASSESSMENT

- 3.1 The site is located within a Housing Area in the Adopted UDP. Policy H14 of the UDP requires that any development in such a location is in scale and character with neighbouring buildings and the area.
- 3.2 The development consists of a uPVC single storey white tiled conservatory, measuring over 3 square metres and built onto the front elevation of the house, opening directly onto the main pavement adjacent the highway.
- 3.3 As the development is forward of the main dwellinghouse, it does not enjoy permitted development rights under Part 1; Class E of the General Permitted Development Order (GPDO) which states –

*E.1. Development is not permitted by Class E if —*

- (b) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;*

- 3.4 The Conservatory in its current location is considered to have a detrimental impact upon the character of the locality, being contrary to the provisions of UDP Policy H14. The white tiled roof and the Upvc cladding is in stark contrast to the house original stone frontage. It is predominantly sited to the front of the building, is intrusive and detracts from the amenity of the area and the street scene in general.

#### 4 REPRESENTATIONS

- 4.1 A complaint has been received from a local resident and also from a Councillor, acting on behalf of a number of local residents, regarding an unauthorised extension to the front of the property.

#### 5 ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 The power to issue an Enforcement Notice (under Section 172 of the Town and Country Planning Act 1990) is discretionary and should only be used where the Local Planning Authority are satisfied that there has been a breach of control *and* it is expedient to issue a Notice, having regard to the provisions of the development plan and any other material considerations. In this case such a notice would require the removal of the unauthorised conservatory from the land.
- 5.2 Enforcement action in respect of all breaches of planning control is subject to time limits – 4 years for operational development and 10 years for change of use. In this case the unauthorised development took place within the prescribed time limits for taking enforcement action.
- 5.3 An Enforcement Notice must be served on the owner(s) and occupier(s) of the land, together with anyone else who is known to have an interest in the land. It takes effect no less than 28 days after the date of service and carries the right of appeal. Any appeal would hold the Notice in abeyance. If there is no appeal, or an appeal is dismissed, failure to comply with the requirements of the Notice would render the owner of the land liable to prosecution. It is an offence for a person who has control of or an interest in the land (other than the owner) to carry on any activity, which is required by the notice to cease.

#### 6 FINANCIAL AND EQUAL OPPORTUNITY IMPLICATIONS

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

## 7 RECOMMENDATIONS

- 7.1 That the Director of 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 development.
- 7.2 The Head of Planning be 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.

Maria Duffy  
Head of Planning

11 November 2014

### THE DEVELOPMENT AT 209 STANNINGTON ROAD







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