



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 10 November 2015

Subject: Enforcement Report

Author of Report: Lee Brook

Summary: The purpose of this report is to inform Board 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 any appropriate action including if necessary, enforcement action and the institution of legal to secure the removal of the unauthorised metal container from land at 2A Stanley Road, Burncross.

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.

Background Papers:

Category of Report: OPEN

ENFORCEMENT REPORT

UNAUTHORISED METAL CONTAINER AT 2A STANLEY ROAD, BURNXCROSS, S35 2XD

1. PURPOSE OF THE REPORT

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

2. BACKGROUND

- 2.1 This report is concerned with 2A Stanley Road, which is a semi-detached house, set back from the corner junction of Stanley Road and Hollow Gate. This report is only concerned with the land within the curtilage of the house and not the '*adjacent land*', (marked on the attached site plan), which is separate and was subject to enforcement action in the past. Number 2A and the adjacent land are under the same ownership.
- 2.2 The previous action, authorised by Members was to secure the cessation of the use of the '*adjacent land*' for residential curtilage within the boundary of 2A; re-instate demarcation of the boundary between 2A and the adjacent land, the re-instatement of land levels, which had been excavated to make a parking area, (for a bus and flat back lorry) and the removal of a metal container. Therefore, at that time, this container (shown in the photo), was formerly on the adjacent land and used for general storage. An enforcement notice was served following authorisation of action and the owner eventually complied with it.
- 2.3 The owner made an agreement with officers to temporarily site the container at the front of his house so that he could use it in connection for storage of tools used in compliance with the enforcement notice. He described his long term plan at a site meeting with officers, (March 2012), to submit an application for a permanent brick built garage to replace the container in the long term. No planning applications have been submitted for 2A Stanley Road.
- 2.4 An application for the adjacent land, ref.0300452/FUL for the use of the adjacent land as garden extension and erection of a garage, was refused. The reasons were that the development would cause significant harm to the character of the open space and woodland area

which would be contrary to policies LR4, LR5 and GE16 of the Sheffield UDP.

- 2.5 There have been long running enforcement issues with the adjacent land that are now resolved to the degree where there is no breach of planning control. The land is not in an ideal condition, consistent with the initial aims of enforcement involvement, when complaints were first received by the Planning Service in 1996. To begin with this was a complaint about tree felling in 2002 and then subsequent earth excavation. Trees have since been planted elsewhere on the land and the land levels re-instated. It is designated as 'open space in the Unitary Development Plan.
- 2.6 This report is concerned with only the metal container now stored on the front of the house at 2A Stanley Road. A written request has been made to remove the container and there is no response to that from the owner.

3. ASSESSMENT OF THE BREACHES OF CONTROL

- 3.1 This is a metal shipping container (blue) and has been in situ at the front of the house, 2A Stanley Road, since approximately March/April 2012. This house is situated on land designated as 'Housing' in the adopted Sheffield Unitary Development Plan, (UDP). It was re-positioned from the adjacent land, which is designated as 'Open Space' in the UDP.
- 3.2 Relevant policies in the UDP are Policy H14 and BE5. H14 relates to "Conditions on Development in Housing Areas", which requires, amongst other things, that new buildings and extensions are well designed and would be in scale and in character with neighbouring buildings. Policy BE5 relates to "Building Design and Siting" and requires good design and the use of good quality materials will be expected in all new buildings and extensions.
- 3.3 Policy CS74 (Design Principles) within the Sheffield Development Framework Core Strategy is also relevant. It states that high quality development will be expected, which would respect, take advantage of and enhance the distinctive features of the city.
- 3.4 There is much debate in planning law as to whether such a container is 'development' as defined by the Planning Act. Legal case law has found both ways, under similar circumstances, that it is and, that it isn't development. The debate tends to be around the fact and degree of movability, permanence. Commentary has referred to both the degree of movability intrinsic in the design suggesting they are not permanent and conversely their bulk and unwieldiness tend to make them require specialist removal and therefore considered a building operation and 'development', under section 55 of the Act. Permanence is also

discussed in terms of services added, (connection to electricity for example) and length of time in situ.

- 3.5 This container is not believed to be connected to any services. The view taken in here is that it has a degree of permanence and that it is a 'building', requiring specialist lifting / moving. There is no new explanation of why it is required. The original purpose was stated to be, by the owner, to use it to store equipment during works to comply with the enforcement notice, (completed), served on the adjacent land, (same ownership). there is clear visual harm being caused. The container has been in position for in excess of three years. If a domestic building is now required, incidental to the house, for storage or other purposes, then it should be made of appropriate materials in keeping with its residential setting, in accordance with policy H14 BE5 of the UDP and Policy CS74 of the adopted Core Strategy. The potential for a building here, a domestic garage, has been discussed with the owner. It was explained that any such building would need to be designed in keeping with the house / residential character of the area and that it would be a difficult position to site it but any proposal would be considered. The current metal container does not accord with policy CS74 of the Core Strategy or policies H14 and BE5 of the UDP.
- 3.6 To sum up; previously this container was on the adjacent land at the corner of Hollow Gate and was used to store tools and materials amongst other items. The owner agreed to move it from that land and he brokered an agreement with officers to temporarily site at the front of his house during work to comply with an Enforcement Notice served in connection with re-instatement of the corner land, (marked 'adjacent land' on the site plan), which was completed some time ago. No such application has been submitted to replace the container for domestic use incidental to the house. We are now at more than 3 years since these matters were discussed at site with the owner prior to beginning work to comply with the notice.

4. REPRESENTATIONS

- 4.1 No recent specific complaints have been made directly about this particular issue of the container being on the front garden. Complaints were received in the past about the condition of the adjacent land in the past when this same container was sited there.

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 breach of 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 regularisation is not being recommended and officers have discussed this at length with the owner.

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 unauthorised container and / or the cessation of the use of the land for storing the container.

6. EQUAL OPPORTUNITIES

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

7. FINANCIAL IMPLICATIONS

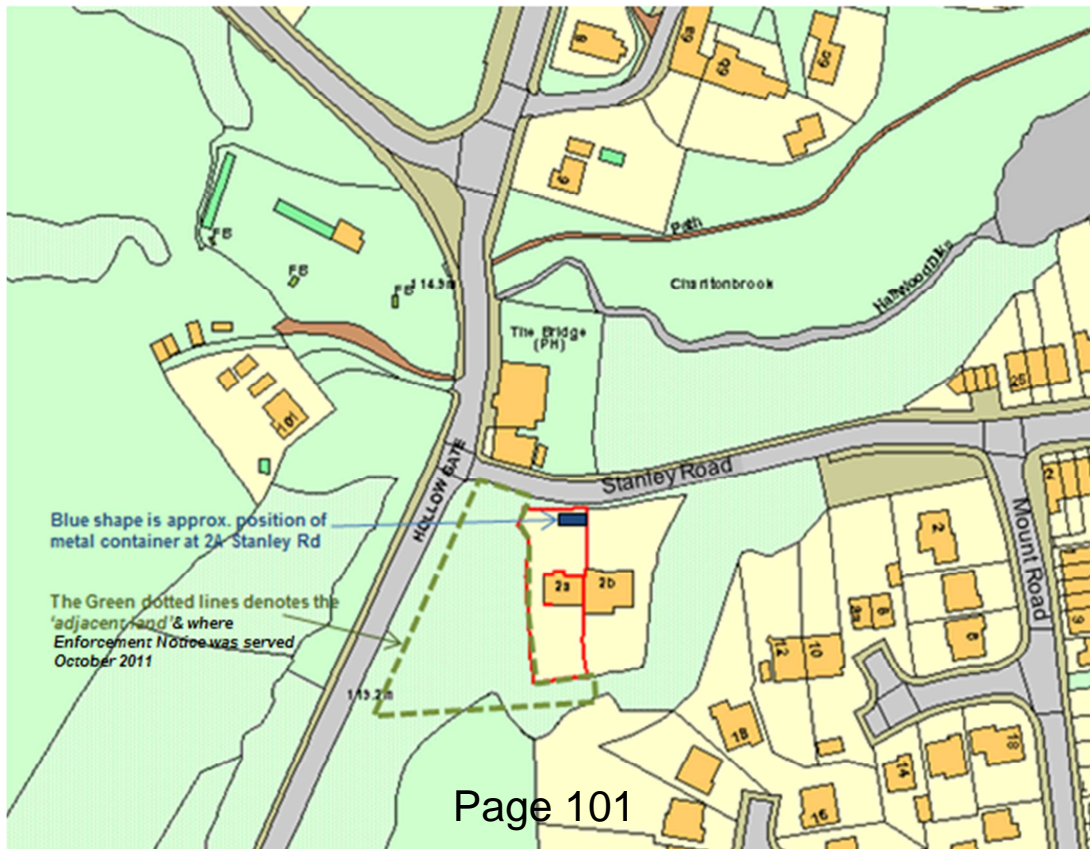
7.1 There are no financial implications arising from the recommendations in this report.

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 to secure the removal of the unauthorised metal container from land at 2A Stanley Road, Burncross.

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.

SITE PLAN



PHOTOGRAPHS



Maria Duffy
Head of Planning

8 October 2015