



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 1 December 2015

Subject: Enforcement Report

Author of Report: Lee Brook

Summary: The purpose of this report is to inform Board Members of a breaches of planning control, to inform Members about enforcement action already taken under delegated powers and 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 (i) secure the removal of the marquee from the land altogether and (ii) the removal of the unauthorised single storey extension or in the alternative full compliance with planning permission 14/1512/FUL, conditions and drawings.

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

NON-COMPLIANCE WITH CONDITIONS ATTACHED TO PLANNING PERMISSION 14/01512/FUL FOR THE RETENTION OF A SINGLE STOREY EXTENSION TO RESTAURANT & UNAUTHORISED ERECTION OF MARQUEE TO REAR OF RESTAURANT, MIRPURI DHERA, 261 STANIFORTH ROAD, S9 3FP

1. PURPOSE OF THE REPORT

The purpose of this report is to inform Committee Members of breaches of planning control, to inform Members about enforcement action already taken under delegated powers and make recommendations on any further action required.

2. LOCATION & BACKGROUND

- 2.1 The site is approximately 0.5km east of Attercliffe centre and 1km west of Darnall centre. The Mirpuri Dhera restaurant is a large 1950's two storey, (at the front), brick built detached building with large flat and pitched roofed single storey parts to the rear. It stands within its own fairly large grounds. The area is mixed in character, including railway line, electricity sub-station, industry, other businesses and terraced housing all visible from the site.
- 2.2 The unauthorised single storey extension was first brought to the Planning Service's attention in February 2014. It was found to be built using inappropriate materials consisting of an outward appearance of corrugated metal sheeting for the exterior elevations
- 2.3 A retrospective planning application was submitted in April 2014 and approved the following July for '*retention of single-storey rear extension*', ref 14/1512/FUL, with four conditions attached, which require the extension to be altered / completed to approved plans and materials that cover over the unacceptable metal corrugated sheeted elevations and also to provide the approved car parking layout.
- 2.4 It came to officer attention in June 2015, during the site visit to assess the above mentioned application that further new, unauthorised, development had taken place in the form of a large white canvass marquee erected to the rear, which remains there at the time of writing. The marquee is linked to the restaurant to provide facility for extra capacity to allow for wedding receptions. It appears to be

complementary to the restaurant by providing extra floor space rather than being a separate business. The footprint of the marquee covers some of the car parking spaces shown on subsequently approved (July) parking layout under planning permission 14/01512/FUL.

- 2.5 Following failed attempts, by letter, to achieve compliance with the planning permission, a Breach of Condition Notice, ('BCN'), dated 27/10/15 was served on the owner and leaseholder, requiring compliance with the following conditions of planning permission 14/01512/FUL:
- Condition 1. That the extension be rendered in accordance with approved drawings in a colour to match the existing building, to remedy the unacceptable appearance of it, as built .
 - Condition 2. The development be carried out in complete accordance with the list of approved drawings specified.
 - Condition 3. Specifies that the extension should not be used unless the car parking accommodation for at least 23 cars as shown on the approved plans be provided and thereafter retained.
- 2.6 Requests in writing have also been made for the removal of the marquee on a number of occasions. No meaningful communication has been received to acknowledge the breach, or to commit to removing the marquee, or to suggest any alternative solution.
- 2.7 The unauthorised extension has been assessed in the above mentioned planning application and a Breach of Conditions Notice was served 27/10/15 to remedy the harm caused by non-compliance with conditions to do with appearance and car parking provision.
3. ASSESSMENT OF THE MARQUEE
- 3.1 The marquee has been on site continuously for approximately 18 months and is considered to amount to a permanent fixture, with no firm indication of a removal date from its owner. It is large and made of a white canvass type material over a metal frame and has glazed French doors / window in one of the elevations. It is at the rear of the premises and does not appear to be physically attached to the main building although it appears that it might have a loose connection or 'walk through' from the main restaurant. The marquee is considered to be 'development' requiring planning permission by reason of, (a) its size; it is large enough to mean it would need to be erected on site, probably (but not essentially) by specialists; (b) its degree of permanence, being present for approximately 18 months to date and (c) its attachment to the ground, it appears to have a metal frame, which is fastened to the existing tarmac car park.

- 3.2 If it is established as 'development', then planning controls apply and the merits of the development can be assessed against relevant policy. National Planning Policy Framework, (NPPF), states that development should always seek to secure high quality design.
- 3.3 The site lies within 'Attercliffe Mixed Use Area' in the Sheffield Unitary Development Plan, (UDP). UDP Policy MU11 relates to 'Conditions on Development in Mixed Use Areas' and advises that new development will be permitted provided that it is well designed and of a scale and nature appropriate to the site and comply with policies for the 'Built and Green Environment' within the UDP; in this case Policy BE5 is relevant. Policy BE5 requires good design and the use of good quality materials for all new and refurbished buildings and extensions.
- 3.4 The adopted Core Strategy, Policy CS74 sets out the design principles and requires development to be high quality, which would respect, take advantage of and enhance the distinctive features of the City, its districts and neighbourhoods.
- 3.5 The Mirpuri Dhera restaurant, is a brick construction with traditional detailing and a pitched roof to the main part of the building at the front. It is set back from the road with a forecourt area where there are 5 car parking spaces and a raised veranda. It has a fairly large parking area at the rear, however this is partly occupied by the marquee. A smaller proportion of the rear car park was already given over to construct the single storey extension referred to above, which is subject to Breach of Condition Notice, (para.2.5).
- 3.6 The marquee is considered to be inappropriate and not in keeping with the character of the building or the area and is not an acceptable alternative to the use of traditional materials. It is largely made of a white canvass material and is partially visible from the highway (Staniforth Road) but is largely out of view from there. No other footpaths / highways pass the site; it is more visible from adjacent properties. Although the marquee does not occupy a prominent position, it is necessary to consider the impact of the extension on the appearance of the host building.
- 3.7 Its large size has an impact on the parking layout as it sits astride some of the spaces allocated under the approved car parking layout, which is part of the planning permission 14/1512/FUL for the retention of the single storey extension. Compliance with this car parking layout is not possible without moving the marquee. The BCN served 27/10/15, (referred above), requires the approved car park layout be provided. This could be seen as the solution for the removal of the marquee, however to avoid it being modified and re-sited elsewhere on the site, this report is presented to Committee to seek authority to serve an enforcement notice to remove it altogether from site. The design is not acceptable as an alternative to a permanent extension or outbuilding.

3.8 Policy MU11 permits new development provided that it is adequately served by transport facilities, has safe access to the highway and appropriate off-street parking. The marquee is located within the existing rear car park area, resulting in the loss of some car parking spaces. The car park was fairly large and an existing car parking layout has been approved under a planning application 14/01512/FUL, (to regularise the adjacent single storey extension), which indicates that 18 spaces would be provided within the rear car park. This was considered acceptable by the Highways Officer subject to the existing 5 spaces at the front of the site being retained and these have been retained.

4. REPRESENTATIONS

4.1 A member of the public notified the Planning Service that an extension made of metal has been erected at the property in January 2014. No representations have been made in relation to the marquee.

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.

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 marquee from the site altogether. An EN could also be used to require the removal of the single storey extension because, technically, it does not have planning consent in the absence of full compliance with the conditions. However in principle an extension is acceptable and the harm can be remedied by using breach of condition notice described at 5.3. It seems unlikely that the owners would argue that they have not implemented the planning permission 14/01512/FUL. However should they make such a case, then an EN could require the removal of the extension altogether.

5.3 Section 187A of the Act provides for the service of a breach of condition notice, (BCN). A BCN was served 27/10/15 under the delegated authority to officers, which requires compliance with retrospective planning permission conditions under ref. 14/1512/FUL for the retention of the extension with appropriate modifications. Compliance with the BCN would also indirectly remedy the marquee issue because it requires compliance with a condition to implement an approved car park layout. One of the approved plans shows a specific car parking layout. The marquee occupies a large area at the rear of

the restaurant including several of the proposed parking spaces shown on the approved layout.

6. EQUAL OPPORTUNITIES

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

7. FINANCIAL IMPLICATIONS

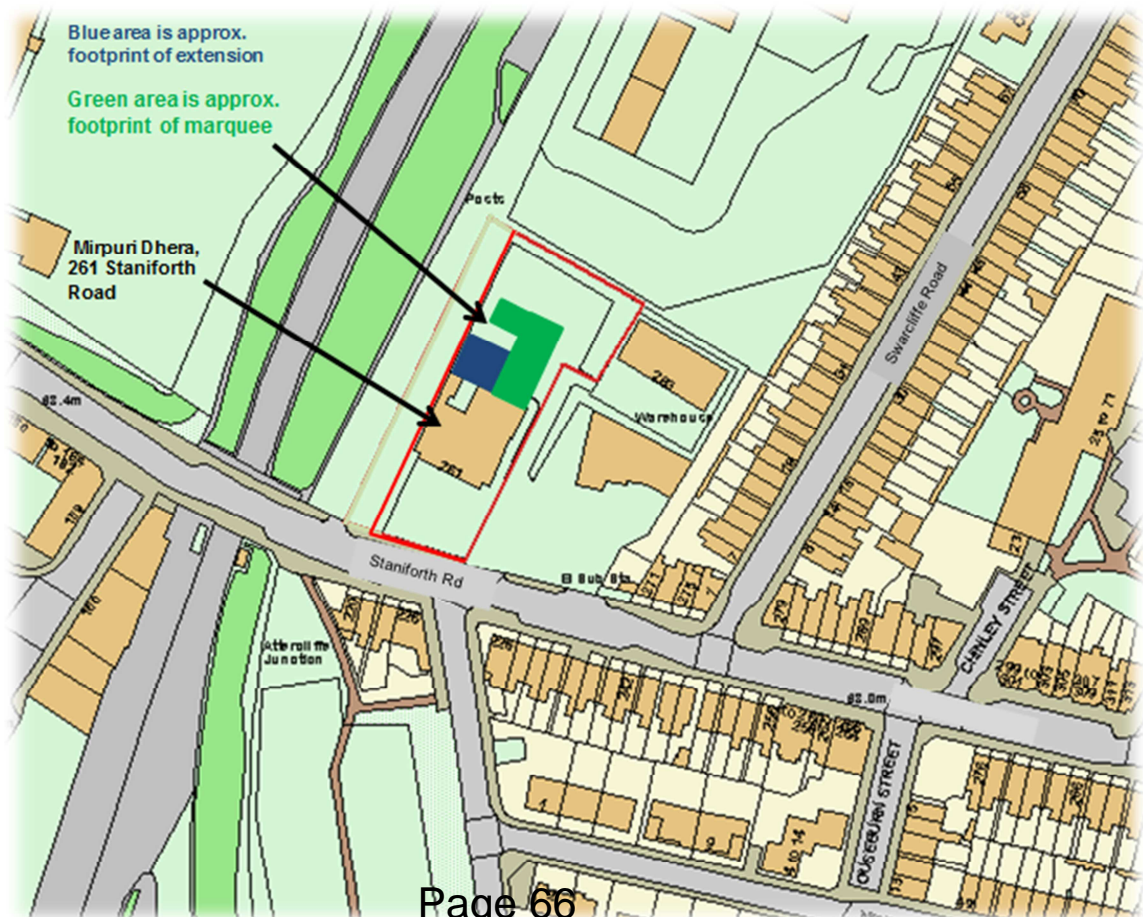
7.1 There are no financial implications arising from the recommendations in this report.

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 proceedings to (i) secure the removal of the marquee from the land altogether and (ii) the removal of the unauthorised single storey extension or in the alternative full compliance with planning permission 14/1512/FUL conditions and drawings.

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



PHOTOS



Maria Duffy
Interim Head of Planning

28 October 2015

This page is intentionally left blank