



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

---

**Report of:** Director of Development Services

---

**Date:** 15 March 2016

---

**Subject:** Enforcement Report  
87 High Street Beighton S20 1EF

---

**Author of Report:** Fiona Sinclair

---

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

---

### Reasons for Recommendations:

To remedy the breach of planning control

### Recommendations:

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 unauthorised flues at 87 High Street Beighton.

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

---

### Background Papers:

---

**Category of Report:** OPEN

## **ENFORCEMENT REPORT**

### **INSTALLATION OF MECHANICAL EXTRACT FLUES AT 87 HIGH STREET BEIGHTON S20 1EF**

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

- 1.1 To inform committee members of a breach of Planning Control and to make recommendations on any further action required.

#### **2. BACKGROUND**

- 2.1 87 High Street is a two storey brick built property with a concrete tiled pitched roof. It was originally a public house but has recently been converted to a restaurant, and is located in row of commercial properties that are sited on a narrow strip of land that has been designated as being a local shopping centre in the Unitary Development Plan (UDP).
- 2.2 A complaint, from a member of the public, was received on 14 March 2014 concerning the installation of extraction ducting and flues, and the emission of odours from these flues.
- 2.3 A site visit, to the property, revealed that two commercial extract flues have been installed, both of which terminate approximately 1m above the level of the roof of a single storey side extension to the property.
- 2.4 Following this initial visit, the property owner was contacted and made aware that he was required to apply for planning permission for the flues
- 2.5 The owner responded to the letter, on 22 July 2014, and asked for application forms to be sent to him so that retrospective planning permission could be applied for.
- 2.6 On 6 January 2015, because an application for planning permission had not been received, information Notices were served, under Section 330(1) of the Town and Country Planning Act 1990, on all interested parties.
- 2.7 The information Notices were completed and returned to the Local Planning Authority, along with assurances that an application for

planning permission would be submitted to the Council. However, to date, no application has been received.

### 3 ASSESSMENT OF BREACH OF CONTROL

- 3.1 The property is located in an area designated as a local shopping centre although it is also immediately adjacent to a designated housing area, with approximately 17 residential units being located within a 50 metre radius of the flues
- 3.2 Unitary Development Plan Policy S10(b) states that in shopping areas, new development, or change of use will be permitted provided that it would 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 or safety.
- 3.3 The report of a nuisance relating to odours being emitted, from the flue, suggests that a proper system of filters have not been fitted to the flues thus causing unacceptable air pollution in the immediate vicinity of the flue and therefore, they are considered to be contrary to the requirements of UDP Policy S10(b).
- 3.4 The submission of a planning application would allow for the proper consideration of the technical configuration of the flues in a bid to minimise nuisance to neighbouring properties.
- 3.5 The photograph, below show the unauthorised flues.

Photograph 1



Photograph 2 showing the residential properties on Queen's Road



Photograph 3 showing the close proximity of the residential properties on Manvers Road



#### 4. REPRESENTATIONS.

- 4.1 One complaint has been received about the flues and makes reference to concerns of air pollution.

#### 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 flues are in breach of planning control, and telephone conversations have taken place between representatives of the Local Planning Authority and the owner; and therefore, 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 flues 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 made 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 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 flues.
- 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

