



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Development Services

Date: 26 April 2016

Subject: Enforcement Report
142 Devonshire Street S3 7FS

Author of Report: Fiona Sinclair

Summary: To inform committee members of a breach of the Planning Regulations 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 repainting of the shop front in a colour scheme that is more in keeping with the original 19th Century characteristics of the listed building known as 142 Devonshire Street S3 7FS.

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

UNAUTHORISED PAINTING OF THE SHOP FRONT TO A GRADE II LISTED BUILDING AT 142 DEVONSHIRE STREET S3 7SF

1. PURPOSE OF REPORT

- 1.1 To inform committee members of a breach of the Listed Building Regulations and to make recommendations on any further action required.

2. BACKGROUND

- 2.1 142 Devonshire Street is a late 19th Century brick-built, slate-roofed, Grade II Listed Building and part of the former Wharncliffe Fireclay Works that was built for John Armitage in 1888.
- 2.2 The property is located within the central shopping area, as identified in the UDP.
- 2.3 A complaint, from a Conservation Officer, was received on 27 January 2015, concerning painting of the shop front without listed building consent.
- 2.4 On 16 February 2015 correspondence was entered into with the owners of the property informing them that because it is a Grade II listed building; listed building consent is required for works of this nature. They were also advised that the union flag theme that they had painted on the shop front was unacceptable.
- 2.5 The owner contacted the Local Planning Authority and explained that, whilst he had no intention of repainting the shop front in a more acceptable colour, he would be submitting an application for Listed Building Consent, even though it was reiterated that it was unlikely this would be successful.
- 2.6 To date no attempt has been made by the owner to either submit an application for Listed Building Consent, or to rectify this matter.

3 ASSESSMENT OF BREACH OF CONTROL

- 3.1 The property is located within the central shopping area, as identified in the UDP.

- 3.2 Unitary Development Plan Policy BE15 'Areas and Buildings of Special Architectural or Historic Interest' states that buildings and areas of architectural or historic interest which are an important part of Sheffield's heritage will be preserved or enhanced. Development which would harm the character, or appearance, of Listed Buildings, Conservation Areas or Areas of Special Character will not be permitted. Policy BE19 'Development Affecting Listed Buildings' states that external alterations which would affect the special interest of a listed building will be expected to preserve the character and appearance of the building.
- 3.4 The union flag theme that has been applied to the shop front is considered to be visually intrusive and does not respect the original character of the property to which it is attached, due to its contemporary and garish design. Therefore it is considered not to preserve or enhance the original 19th Century characteristics of the building and is contrary to policies BE15 and BE19 of the UDP.
- 3.5 The National Planning Policy Framework states that great weight should be given to the conservation of designated heritage assets such as this, with any harm, or loss, requiring clear and convincing justification. No such justification has been provided in this case.
- 3.6 Whilst the need of the business to advertise its presence and attract custom is recognised, this shop front has a deep fascia and projecting sign for these purposes, and there is no justification for garish and unsympathetic painting of the shop front to serve this purpose.
- 3.7 Photograph 1, below show the property in question and demonstrates that the visual harm is unacceptable particularly given the wider context of the street scene and the building within which the shop front is positioned

Photograph 1



4. REPRESENTATIONS.

- 4.1 No representations have been made, other than from one of the Council's Conservation Officers.

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 painting is in breach of planning control and as such it is not considered that the serving of a PCN would be of any value.
- 5.3 It is an offence to carry out works to a listed building, which affects its character, under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990; and Section 38 of the Act provides for the service of a listed building enforcement notice. In this case such a notice would require making good the harm caused by the contemporary and garish design of the shop front. There is a right to appeal, to the Planning Inspectorate, against the serving of a listed building 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 repainting of the shop front in a colour scheme that is more in keeping with the original 19th Century characteristics of the building.
- 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

