



## **SHEFFIELD CITY COUNCIL Planning & Highways Committee Report**

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**Report of:** Head of Planning

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**Date:** 9 August 2016

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**Subject:** Enforcement Report  
142 Devonshire Street S3 7FS

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**Author of Report:** Fiona Sinclair

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

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### **Reasons for Recommendations:**

To remedy the breach of Planning Control

### **Recommendations:**

That the 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 advertisements and 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

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### **Background Papers:**

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**Category of Report:** OPEN

## **ENFORCEMENT REPORT**

### **UNAUTHORISED ADVERTISEMENTS AND 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 Listed Building and Advertisement Control and to make recommendations on any further action required.

#### **2. BACKGROUND**

- 2.1 142 Devonshire Street is a late 19<sup>th</sup> 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 garish colour scheme painted on the shop front was unacceptable as it is at odds with the character of the wider building.
- 2.5 The business 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 On 19 May 2016 representatives, from the Local Planning Service met with the business owner; and, during this meeting, it was explained why the current colour scheme was unacceptable; and also that the advertisements he had attached to the building's façade and shop front are also not in keeping with the character of the building. He was also

made aware of the options available to enable him to resolve this matter.

- 2.7 As a result of this meeting the business owner confirmed that he would apply for the necessary consents and was given a period of 28 days in which to do so.
- 2.8 To date no attempt has been made by the owner to either submit any formal applications or to rectify this matter; although officers remain willing to work with him to try to secure a solution that will see the restoration of the building's original character as well as trying to accommodate his wish to display the union flag in some form. In the absence of any willingness on the owner's part to resolve this matter, there is no option but to report this matter to this committee.

### 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 painting scheme (which seeks to replicate the union flag) that has been applied to the shop front, and the signs, advertising the shop's business, are considered to be visually intrusive and do not respect the original character of the property. The fascia advert is too deep and cuts across architectural features (windows) and the projecting sign is a clumsy internally illuminated box sign. Together with the unsympathetic painting scheme these elements jar with the character of the building as a whole, as illustrated in the image later in this report. Therefore they are considered not to preserve or enhance the original 19<sup>th</sup> Century characteristics of the building and are 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, there is no justification for the unauthorised scheme that has been implemented. Officers remain willing to work with the owner to resolve this matter but cooperation has not been forthcoming to date.
- 3.7 Photographs 1 and 2, below show the property in question and demonstrate that the visual harm is unacceptable particularly given the wider context of the street scene and the wider building within which the shop front is positioned.

Photograph 1



## Photograph 2



#### 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 and adverts are in breach of listed building and advertisement control and as such it is not considered that the serving of a PCN would be of any value.
- 5.2 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 painting of the shop front and the signs advertising the business. 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.

- 5.3 It is an offence to display without consent a sign that requires express consent under the Town and Country Planning (Control of Advertisements) Regulations 1992. A prosecution can be brought under Section 224(3) of The Town and Country Planning Act 1990.

## 6 EQUAL OPPORTUNITIES

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

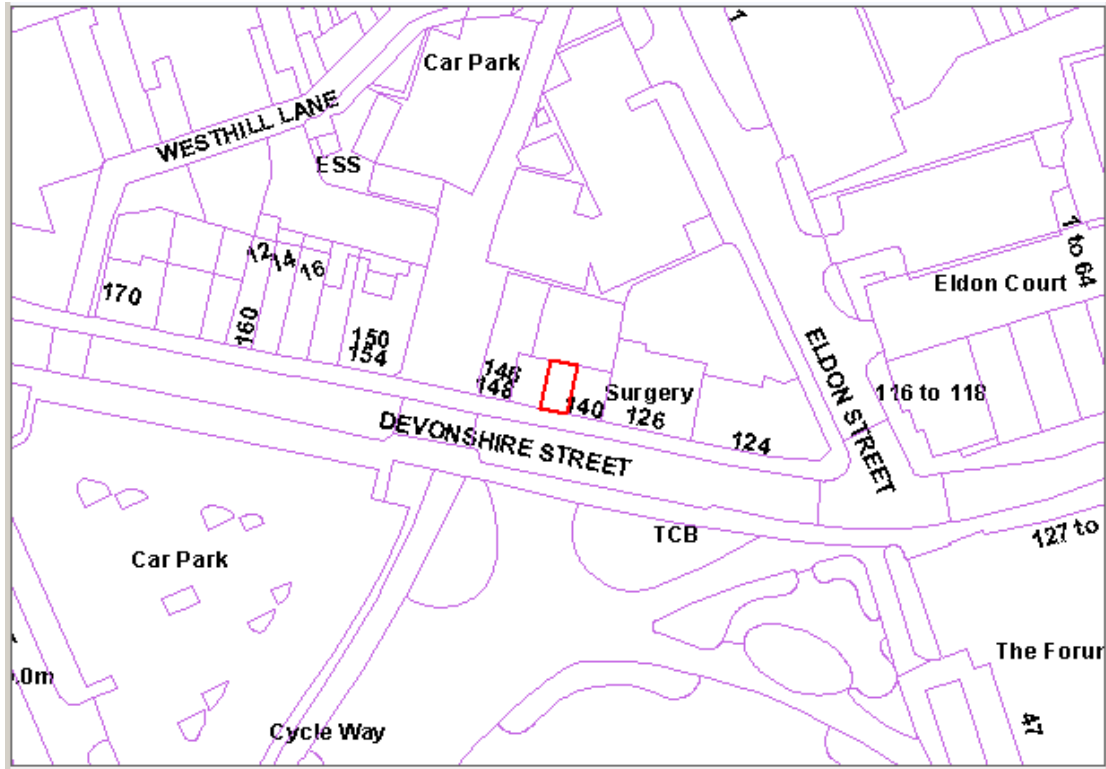
## 7 FINANCIAL IMPLICATIONS

- 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 Head of Planning be authorised to take any appropriate action including, if necessary, enforcement action and the institution of legal proceedings to secure, removal of the unauthorised advertisements and the repainting of the shop front in a colour scheme that is more in keeping with the original 19<sup>th</sup> 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 control.

Site Plan



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