



## SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

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**Report of:** The Interim Head of Planning

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**Date:** 1 November 2016

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**Subject:** Enforcement Report

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**Author of Report:** Lee Brook

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**Summary:** Unauthorised use of land as a vehicle breakers yard, storage of vehicles, parts and waste and erection of an unauthorised building.  
Barleywood Road

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**Recommendations:**

That the Interim 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 extension.

The Interim 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.

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**Background Papers:**

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**Category of Report:** OPEN

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## **ENFORCEMENT REPORT**

### **UNAUTHORISED USE OF LAND AS A VEHICLE BREAKERS YARD, STORAGE OF VEHICLES, PARTS AND WASTE AND UNAUTHORISED ERECTION OF A BUILDING, BARLEYWOOD ROAD**

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

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

#### **2. BACKGROUND**

- 2.1 A complaint has been received about the use of land adjoining the cemetery for a scrap yard. On visiting the site a car breakers use was found, including storage of scrap vehicles, parts and a large new building was under construction. The owner of the business reports that he has applied for building regulations for the building. This has been checked and confirmed. However there is no planning permission for the new building or for the use of the land. The access lane, part of Barleywood Road is also being used to store vehicles and waste material.
- 2.2 The owner was verbally advised at site, that although the use is described as acceptable in principle, due to the local plan zoning as Industrial land, (see section 3), the close proximity to the cemetery and to the setting of listed buildings raises serious concerns. The quiet enjoyment of the cemetery by families visiting graves could be spoiled and the setting of the listed buildings and listed wall is considered to be spoiled by the visual impact of the use and large new building. A letter, dated 8<sup>th</sup> September was sent to the business owner giving the officer view in writing.
- 2.3 It has been confirmed that some of the unauthorised use is taking place on Barleywood Road carriageway itself, a public highway, (un-adopted), owned by Sheffield City Council. Highways enforcement are taking this up with the business owner to ensure it is free from obstructions. It is currently used for storing scrap vehicles and depositing waste. A public footpath is also affected, in that some of the storage / waste obscures the view of the path line for members of

the public that wish to use it. The Highways public rights of way team are investigating.

2.4 Information checks have also been lodged with the Environment Agency and officers await their response at the time of writing.

### 3. ASSESSMENT OF THE BREACHES OF CONTROL

3.1 The current unauthorised use, includes the yard site and part of the highway, Barleywood Road itself. The yard and the public highway are used in connection with this business, which consists of vehicle breaking, vehicle and parts storage, storage of scrap waste. The highway is being used for parking scrap vehicles and storing waste. A partially built tall building under construction without planning permission has been stopped, with the metal frame walls and roof structure standing at this time. Visits to check this remains so are taking place.

3.2 All the site lies within an area allocated as General Industry Area with Special Industries in the Sheffield Unitary Development Plan, (UDP). It's in an area marked as 'A' on the proposals map.

3.3 IB5 permits the scrap yard use in principle for land within area marked as 'A'. Policy IB9 '*Conditions on Development in Industry and Business Area*', states that new development or change of use will be permitted provided that it would (amongst other things) comply with Policies IB5 to IB8, IB10 to IB14 and T28 as appropriate and comply with policies for the Built and Green Environment, as appropriate. Appropriate UDP policies here are Industry and Business Policies IB5, IB9, IB14 and Built Environment Policies BE15 and BE19.

3.4 IB5 permits the use in principle. IB9 refers to conditions and adherence to other policies, such as Built Environment policies. IB14, '*Siting Industries & Sensitive Uses Near To Each Other*' states that an environmental buffer will be required between industry and sensitive uses. BE15, '*Areas & Buildings of Special Architectural or Historic Interest*' states that buildings and areas of special 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. BE19, '*Development Affecting Listed Buildings*', states, (amongst other things), that development within the curtilage of a building or affecting its setting will be expected to preserve the character and setting of the building and its setting.

3.5 Policy CS74 (Design Principles) within the Sheffield Local Plan Core Strategy states that high quality development will be expected, which would respect, take advantage of and enhance the distinctive features of the city, its districts and neighbourhoods.

- 3.6 Over-arching National Policy. The National Planning Policy Framework (NPPF) has replaced previous national planning guidance and the following paragraphs are relevant in terms of overall principle. Paragraph 9, *'Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment..'* At Paragraph 11, Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. At paragraph 134, Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 3.7 The owner of the scrap business explained that the use has operated for approximately three and a half years with the construction of the building beginning recently.
- 3.8 Barleywood Road runs alongside the Tinsley Park Cemetery's boundary wall and railings. The wall / railings is a grade II listed building, (marked on the plan). Scrap vehicles are stored directly in front of this wall on the highway, obscuring the wall from view. This part of the road is substantially covered in parked scrap vehicles. This part of the road is un-adopted and its surface at this point does not have sealed tarmac surface. On the opposite side of the road from the cemetery wall, there are two scrapped vans and a significant amount of waste, including rubber, plastics, car fabrics and small amounts of metal, other miscellaneous rubbish from vehicles and also piled tree trunks and branches. Photos / plan attached to this report. All of this is visually unattractive when viewed in the context of the cemetery and is clearly visible from the adopted section of Barleywood Road on the approach to the cemetery entrance. The storage and the waste spoils the setting of the listed boundary wall / gates and the chapels in the backdrop. Although a dead-end road, leading to the unauthorised scrap yard, this public highway is also obstructed by these items and highways enforcement are investigating.
- 3.9 The main yard is a typical car breakers and consists of dismantled vehicles, stored parts, tools and plant. At present the maximum height of stored vehicles is just one to two vehicles high. There is no clear / evident plan for waste management, although the owner states that he is working with the environment agency to manage hazardous waste / drainage. Officers are checking this and awaiting feedback from the Environment Agency. The tarmac surfaced yard is substantially covered in a film of oil. A large portal frame building is partially constructed in the yard. Work has stopped following the planning enforcement visit. There is an application under Building Regulations but no application for a planning permission. The yard immediately adjoins the cemetery close to its entrance.

- 3.10 The portal building is tall, though not measured yet. It is very visible from the cemetery and is seen in the backdrop of the listed chapel buildings as you enter the cemetery through the main gates, which are also listed. The photographs attached show the building in the context of the listed buildings and the listed boundary walls, from different positions. There is an existing industrial building further in the background that also has some impact on the setting of the chapel from some angles. However the new scrap yard building is closer and has a greater impact, from more viewpoints. The new building is considered to spoil the setting of the chapel and the cemetery's entrance gates and walls. The lodge house at the entrance is also listed.
- 3.11 In accordance with the National Planning Policy Framework, paragraph 134, the scrap yard development, as far as it stands on private land, is in accordance with the local development plan and therefore would be considered acceptable in principle, being in accord with policy IB5 . Other material considerations are the effect of the unauthorised development on the setting of the listed buildings described in this report. As such the development is considered to be contrary to policies BE15, BE19 and as a consequence IB9 and IB14.
- 3.12 It is acknowledged that there are other existing industrial buildings on adjacent sites to the cemetery. Those buildings however, are not in such close proximity to the listed buildings and have less of an impact on their setting. The close proximity is also considered to be potentially detrimental to the quiet enjoyment of people visiting family graves by way of general noise disturbance..

#### 4. REPRESENTATIONS

- 4.1 One complaint has been received from a member of the public that regularly visits family graves at the cemetery. The complaint, via the local MP, refers to the inappropriate use next to the cemetery.

#### 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 171E of the Act provides for the service of a Temporary Stop Notice (TSN) if it is expedient to require a breach of planning control to be stopped immediately. The temporary stop period lasts for 28 days to allow the Council time to decide / implement further enforcement action, if necessary. There is no right of appeal against a TSN. This

option is being considered due to the nature of the use and its impact on the neighbouring cemetery and listed buildings.

- 5.3 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 building and the cessation of the unauthorised use for vehicle breaking, storage of vehicles and parts.
- 5.4 Section 183 of the Act provides for the service of a Stop Notice in conjunction with an enforcement notice (S172). In this case the stop notice would immediately prohibit the unauthorised use from continuing.
- 5.5 Section 187b of the Act allows the Planning Authority to apply to the Sheffield County Court to restrain a breach of planning control. In this case an injunction would be a last resort if the stop notice/s were ignored. Injunctive action would be a quicker way to stop further unauthorised harmful activity, (than by prosecution for non-compliance with the stop notice).

## 6. EQUAL OPPORTUNITIES

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

## 7. FINANCIAL IMPLICATIONS

- 7.1 Where an enforcement notice (EN) and stop notice, under Section 183, is served compensation may be payable, following appeal, in respect of a stopped activity if:
  - a) the EN is quashed on grounds other than the granting of planning permission,
  - b) the EN is varied so that matters alleged to constitute a breach of control cease to include an activity stopped by the notice,
  - c) the EN is withdrawn by the Council otherwise than in consequence with the grant of planning permission by the Council for the development to which the notice relates; or
  - d) the stop notice is withdrawn.
- 7.2 In the unlikely event compensation is paid, it would be met from the planning revenue budget

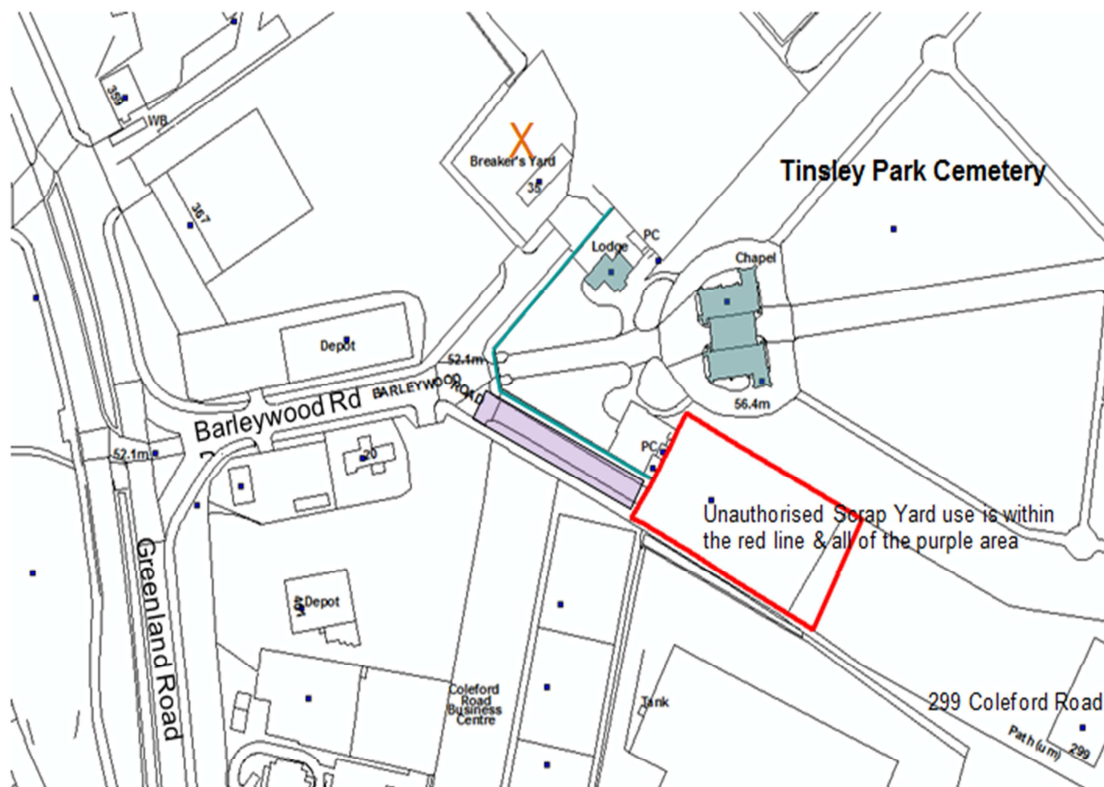
## 8. RECOMMENDATION

- 8.1 That the Interim Head of Planning be authorised to take any appropriate action including if necessary, enforcement action, including


the use of stop notice powers and the institution of legal to secure the cessation of the use of the land as a vehicle breakers yard and removal of the unauthorised building and clearance of the land of any items associated with the unauthorised use.


- 8.2 The Interim 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



 Purple Area is owned by Sheffield City Council – this is being used for storing scrap vehicles & waste. It is part of Barleywood Road

 Red Line is the main yard

 Grade II Listed Buildings, including the walls, lodge & chapels.

 Existing Breakers Yard, which was refused permission initially. Planning permission was granted in 1983 for metals cycling use.



PHOTOGRAPHS







Photos 1, 2 & 3 : (purple area on plan) shows scrap vehicles parked on Barleywood Rd & waste piled on Barleywood Rd, logs etc. Listed wall is behind the cars.

Photos 4, 5 & 6 : Within the main yard area (red line on plan). The Chapel (listed building) & the portal frame building shown.

Photo 7 : Scrap vehicles on Barleywood Rd

Photo 8 : Scrap vehicles on Barleywood Rd. Stone wall is a listed building.





Photos **9, 10, 11**: taken from within the cemetery. Shows the unauthorised portal frame building & the listed chapel.

Photo **12** : taken within the cemetery. It shows the unauthorised portal frame building from deeper within the cemetery.

Photo **13** : example of an existing industrial building close to cemetery but not close to the listed buildings (299 Coleford Rd shown on the plan).

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