



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Development Services

Date: 14 February 2017

Subject: Enforcement Report
369-373 Abbeydale Road S7 1FS

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 Regeneration & 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 an unauthorised canopy at 369-373 Abbeydale Road.

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

ERECTION OF AN UNAUTHORISED METAL CANOPY ON THE FRONT OF 369-373 ABBEYDALE ROAD S7 1FS

1. PURPOSE OF REPORT

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

2. BACKGROUND

- 2.1 369 - 373 Abbeydale Road is a traditionally built two storey terraced retail property; and located in an area that is predominantly commercial in character.
- 2.2 The property is located within a local shopping centre, as identified in the UDP and is currently being used as a grocery shop.
- 2.3 Abbeydale Road is in an area of the city that has been targeted by the Council's Planning Enforcement Team with the aim of improving the general appearance of the area with enforcement action being taken in 2007, 2014 and 2015 to remove unauthorised canopies, and in 2012/16 to remove a number of illegal advertisements.
- 2.4 On 1 July 2016 officers became aware of the erection of metal canopy that had been attached to the front elevation, of this property.
- 2.5 Correspondence was entered into with the owners of 369-373 informing them that, planning permission is required to erect a canopy on the front of retail premises but that because of the detrimental effect to the amenities of the street scene, it is unlikely that it would be granted for the one that had been built.
- 2.6 The owners responded to the letter and it was agreed they would be provided with an opportunity to apply for planning permission for more traditional retractable canopies.
- 2.7 To date no attempt has been taken by the owner to remove the canopy as requested in the original correspondence dated 18 July 2016, or to submit an application for alternative and more acceptable canopies.

- 3 ASSESSMENT OF BREACH OF CONTROL
- 3.1 The property is located within a local shopping area as defined within the UDP.
- 3.2 Unitary Development Plan Policy S10 'Conditions on Development in Shopping Areas' states that new development must 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 and safety and be well designed and of a scale and nature appropriate to the site.
- 3.3 Unitary Development Plan Policy BE5 'Building Design and Siting' states that good design and the use of good quality materials will be expected in all new and refurbished buildings and extensions and all extensions should respect the scale, form, detail and materials of the original building.
- 3.4 Although canopies are often a traditional feature of shops in this area, they tend to be the retractable metal and canvas fascia type that one associates with shops of this type and age. The function of the current canopy is to protect food displayed for sale from the elements. A traditional canopy, of the kind described above, could achieve that aim without harm to the street scene.
- 3.5 However, the canopy in question is a metal post and frame structure with a profiled steel sheet roof, and is a permanent feature across the whole of the forecourt of the property, dominating it and making it visually intrusive. It also does not respect the character of the property to which it is attached, or that of other properties in the immediate vicinity from a point of view of the materials used in its construction and its overall size. Therefore the canopy is considered to have a detrimental effect on the visual amenities of the street scene and is contrary to policy BE5 and S10 of the UDP.
- 3.6 The photographs, below show the canopy in question and demonstrate the visual harm is unacceptable in this area.



4. REPRESENTATIONS.

4.1 There are no representations.

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 canopy is in breach of planning control, and the owner has been given the opportunity to discuss this, and as such 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 canopy 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 awarded 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 Acting Director of Development Services or Interim Head of Planning: Chief Planning Officer 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 canopy at 369-373 Abbeydale Road.

- 8.2 The Interim Head of Planning: Chief Planning Officer 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

