



**REPORT TO CITY CENTRE SOUTH &
EAST AREA PLANNING & HIGHWAYS
COMMITTEE**

DATE 21 MAY 2012

REPORT OF DIRECTOR OF DEVELOPMENT SERVICES

ITEM

SUBJECT 44 ASHLAND ROAD, SHEFFIELD, SHEFFIELD, S7 1RJ.

SUMMARY

TO INFORM MEMBERS OF THE SITUATION AT THE ABOVE ADDRESS AND MAKE RECOMMENDATIONS ON THE APPROPRIATE FORM OF ACTION.

RECOMMENDATIONS

THAT THE AREA COMMITTEE AUTHORISES THE CITY SOLICITOR TO TAKE ALL NECESSARY STEPS, INCLUDING ENFORCEMENT ACTION AND IF NECESSARY THE INSTITUTION OF LEGAL PROCEEDINGS, TO SECURE THE REMOVAL OF THE REAR DORMER WINDOW

FINANCIAL IMPLICATIONS

NO

PARAGRAPHS

CLEARED BY

Catherine Rodgers

BACKGROUND PAPERS

CONTACT POINT FOR ACCESS

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AREA(S) AFFECTED

**CATEGORY OF
REPORT**

OPEN

DEVELOPMENT SERVICES

REPORT TO CITY CENTRE SOUTH
AND EAST PLANNING AND
HIGHWAYS COMMITTEE
21 MAY 2012

ENFORCEMENT REPORT

UNAUTHORISED LAYING OF HARDSTANDING AND FAILURE TO PLANT TREES AS REPLACEMENTS FOR PREVIOUSLY REMOVED TREES AT 44 ASHLAND ROAD, S7 1RJ.

1. PURPOSE OF REPORT

The purpose of this report is to inform Committee Members of a breach of planning control and the non-provision of replacement trees as required by a previous consent allowing the removal of trees at the property.

2. BACKGROUND AND LOCATION

2.1 44 Ashland Road is a traditional stone built property. It is located to the north-west of Ashland Road, within the Nether Edge Conservation Area. It is covered by the Article 4(2) designation which was applied to many properties in the area in February 2006, and is identified as a Building of Historic Interest within the Nether Edge Conservation Area Appraisal. This has the effect of removing certain permitted development rights from property owners, including the laying of hardstanding forward of dwellings' front elevations. The laying of hardstanding was carried out after the Nether Edge Conservation Area Article 4(2) came into effect.

2.2 A complaint was received in September 2011, regarding the laying of hardstanding adjacent to the property. A subsequent site visit was carried out, and it was seen that concrete had been laid to the north-east of the dwelling from the back of the footpath, down past the side of the dwellinghouse beyond its rear elevation and around to the rear of the dwellinghouse
Consent is required for the portion of this hardsurfacing which lies in the zone between the dwellings' front elevation and the back edge of the footpath. In this case, this covers an area of approximately 2metres in depth.

2.3 Two letters were sent to the owner informing them that there are no permitted development rights to lay concrete in the zone between the dwellings' front elevation and the back of the footpath, and since the

new surfacing in this zone was laid without planning permission it was unauthorised. The owner was advised that a planning permission to retain the surfacing was unlikely to be considered to be acceptable, and therefore natural stone setts should instead be laid in the area in question.

In researching the case, it was also noted that a consent to remove trees (granted under 09/01610/TCA) had included a condition requiring the planting of four heavy standard size replacement trees. Whilst the trees had been removed, no replacement trees have been provided and the requirement to do so was therefore pointed out within the correspondence sent to the property owners.

- 2.4 These items of correspondence were followed by a meeting at the site with the property owners, where these issues were discussed. Further to this an e-mail and additional written correspondence was sent to the owners re-iterating the required action having considered the points raised during the meeting. This included the suggestion that as an alternative to reclaimed stone sets, Marshalls Tegula Priora Setts could be used.

3 ASSESSMENT OF THE BREACHES OF CONTROL

- 3.1 The previous driveway appears from archive photographs to have been narrower in width than the area covered by the newly laid surfacing.
- 3.2 Unitary Development Plan Policy BE16 'Development in Conservation Areas' states that in Conservation Areas permission will only be given for proposals which contain sufficient information to enable their impact on the areas to be judged acceptable and which would preserve or enhance the character or appearance of the Conservation Area.
- 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.
- 3.4 Unitary Development Plan Policy BE17 'Design and Materials in Areas of Special Architectural or Historic Interest' requires a high standard of design using traditional materials.
- 3.5 The Nether Edge Conservation Area Appraisal, refers to the creation of driveways using non-traditional paving materials as being of serious concern, along with the loss and poor maintenance of original boundary walls. The cumulative impact of these actions has seriously eroded the original character of the area.
- 3.6 The Appraisal recommended that in order to prevent further, small scale, incremental erosion of the character of the Conservation Area, an Article 4 Direction could be imposed, removing Permitted Development rights for such works. An Article 4(2) Direction was

imposed in February 2006, following consultation with local residents and property owners.

- 3.7 It is considered that the concrete hardsurfacing is of unsatisfactory appearance due to it being an inappropriate and non-traditional material. The substantial area covered also acts to exacerbate its impacts within the street scene and on the character of the area. It is therefore considered that the surfacing fails to preserve or enhance the character of the Nether Edge Conservation Area. As a result, the works are contrary to the aims of the policies BE5, BE16 and BE17 of the Unitary Development Plan.
- 3.8 The below photograph shows the concrete hardsurfacing in question and demonstrates that the unauthorised works are not appropriate for the property and their appearance is deemed not to be in keeping with the character of the conservation area.

Photo of Concrete Hardsurfacing



- 3.9 The use of concrete surfacing is a non-traditional material within the curtilage of a house of this age and style, and within the Conservation Area as a whole. The stark colour, its uniformity, and the non-

fragmented nature of the surface (rather than individual stone pieces for example) lead to its inappropriate appearance.

- 3.10 The property owners have stated that the surface was previously a degraded concrete, and consider the new surfacing to represent an improvement in visual terms.
- 3.11 The Enforcement Notice would require the replacement of the portion of concrete surfacing lying to the front of the dwelling to be replaced with a more suitable alternative. Whilst this would leave a substantial area of the concrete shown in the above photograph in-situ, it would provide an appropriate surface material in the foreground. This would be considered to represent a substantial improvement to the appearance of the dwelling's curtilage within the street scene and would cover the area of most prominence to those passing-by. It is also the only area over which the local planning authority has the power to act under the Article 4 designation. An appropriate surface would, as mentioned above, be either reclaimed natural stone setts or Marshalls Tegula Priora Setts. Such surfacing would be appropriate to the character of the dwelling and the conservation area.

- 3.12 Turning to the issue of the non replacement of trees, as required by the previously granted consent to remove trees (09/01610/TCA).

Unitary Development Plan Policy GE15 'Trees and Woodlands' states that developers will be required to retain mature trees, wherever possible and replace any trees which are lost.

- 3.13 The Nether Edge Conservation Area Appraisal states in particular reference to the portion of the Conservation Area in which Ashland Road is located, that the area is rich in greenery from the many large residential gardens. The Conservation Area Appraisal in assessment of the Landscape Setting issues, refers to the main threat to the established landscape of the area coming from the potential loss of trees. It is stated that the loss of trees would radically alter the appearance of the area, although any change is likely to be gradual and unnoticeable over the short term. It is commented that where a tree is removed a replacement of the same species is generally required, and that this is important to the continuity of the area because non-forest species are typically of different scale, form and appearance. The Appraisal states that without the rigorous application of this approach the visual and historic character of the conservation area will be compromised.

- 3.14 Consent was granted for the removal of a total of 10 trees, at least four of which were either affected by decay or causing structural damage to a boundary wall. For this reason the consent was subject to the requirement to replant four heavy standard size trees. The trees have

been removed, and no replacement trees have been provided. The hardsurfacing referred to above acts to limit the scope to plant replacement trees, however, it is considered that there remains potential within the site to plant suitable replacement trees.

- 3.15 The owners have expressed concern about replanting trees given the previous impacts upon the boundary wall caused by trees, and have offered to provide fruit trees. Fruit trees are not considered to be an appropriate replacement tree for the removed trees, as they are non-forest species which do not grow to be sufficiently significant in size to constitute suitable replacements.
- 3.16 Silver birch trees have been suggested to the property owners as a suitable tree species. This is because they would be able to be planted in the area to the rear of the dwellinghouse, in reasonably close proximity to the house without resulting in damage to the trees or the building.
No response has been received from the property owners regarding this suggestion.
- 3.17 In order to require that four appropriate replacement trees are planted, it would be necessary to issue a Tree Replacement Notice upon the property owners, which would specify details of the tree type, number and location/s.
- 3.18 This course of action is considered to be necessary in order to address the impacts upon the character of the conservation area caused by the removal of the trees and the failure to plant appropriate replacements. The planting of appropriate forest type species, i.e. silver birch trees, would be considered to compensate for the impacts on the visual and historic character of the conservation area.

4 REPRESENTATIONS

- 4.1 Two complaints have been received about the operations at the site. These refer to the laying of the concrete hardsurfacing at the property, recent amendments to legislation designed to help prevent flooding, the removal of several large trees, the construction of a retaining wall and the resulting poor visual appearance.

5 ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Regularisation of the existing hardstanding through the submission of a planning application and acceptance of the failure to provide replacement trees is not being recommended.
- 5.2 Planning permission was granted for the construction of a retaining wall under planning application reference 11/01590/FUL, and as such no further action is recommended in relation to this issue.

5.2 Section 172 of the Act provides for the service of an enforcement notice (EN) where there has been a breach of planning control. In this case such a notice would require remedial measures to be carried out to deal with the breach. This would involve the laying of an appropriate surface in place of the concrete, in the zone to the front of the dwellinghouse with an appropriate surface material. There is a right of appeal to the Planning Inspectorate against the Enforcement Notice. It is considered, however, that the Council would be able to successfully defend any such appeal.

5.3 Section 213 of the Act provides for the service of a Tree Replacement Notice, which would require the planting of four suitable replacement trees. There is the right of appeal against the notice, however, it is considered that the Council would be able to successfully defend such an appeal.

6 EQUAL OPPORTUNITIES

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

7 FINANCIAL IMPLICATIONS

7.1 There are no financial implications arising from the recommendations in this report.

8 RECOMMENDATION

8.1 That the Director of Development Services or Head of Planning be authorised to take all necessary steps, if necessary, enforcement action and the institution of legal proceedings to secure the removal of the unauthorised concrete hardstanding between the back edge of the footpath and a position level with the front elevation of the dwelling, and replacement with a suitable alternative, and to require the planting of four suitable replacement trees within the curtilage of Num. 44 Ashland Road.

D Caulfield
Head of Planning

21 May 2012

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