

**REPORT TO CITY CENTRE, SOUTH AND
EAST PLANNING AND HIGHWAYS AREA
COMMITTEE**

DATE 13 AUGUST 2012

REPORT OF DIRECTOR OF DEVELOPMENT SERVICES

ITEM

SUBJECT ENFORCEMENT REPORT

UNAUTHORISED REPLACEMENT OF WINDOWS AND TO THE FRONT OF 33 ALBANY ROAD, S7.

SUMMARY

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.

RECOMMENDATIONS

THAT AUTHORITY BE GIVEN TO THE DIRECTOR OF DEVELOPMENT SERVICES OR HEAD OF PLANNING TO TAKE ALL NECESSARY STEPS, INCLUDING ENFORCEMENT ACTION AND THE INSTITUTION OF LEGAL PROCEEDINGS, IF NECESSARY, TO SECURE THE REMOVAL OF THE UNAUTHORISED WINDOWS.

FINANCIAL IMPLICATIONS

NO

PARAGRAPHS

CLEARED BY

CATHERINE RODGERS

BACKGROUND PAPERS

CONTACT POINT FOR ACCESS

BRENDAN GILLESPIE

TEL NO: 203 7798

AREA(S) AFFECTED

**CATEGORY OF
REPORT**

OPEN

CLOSED
Paragraphs(s)

DEVELOPMENT SERVICES

REPORT TO CITY CENTRE, SOUTH AND EAST PLANNING AND HIGHWAYS AREA COMMITTEE

13 August 2012

ENFORCEMENT REPORT

UNAUTHORISED REPLACEMENT WINDOWS TO THE FRONT OF THE DWELLING AT ALBANY COURT, 33 ALBANY ROAD WHICH LIES WITHIN THE NETHER EDGE ARTICLE 4 CONSERVATION AREA

1. PURPOSE OF THE REPORT

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

2. BACKGROUND

2.1 33 Albany Road is a traditional stone built detached property located within Nether Edge Conservation Area, and is covered by an Article 4 (2) direction. The Article 4(2) direction was declared in 2005 and was placed on properties which had traditional features on buildings of merit within the street scene. This particular property was converted into 3 self-contained flats following formal planning approval in 1978.

2.2 On the 2nd October 2008, Officers were first alerted that workmen were fitting a brown uPVC window into a Dormer window at the front of the property. A visit to the site was made that day and officers witnessed work being carried out on the Dormer window and that a window on the 2nd floor had just been replaced with a new Brown uPVC window, not considered to be in keeping with the character of the Article 4 Conservation Area.

2.3 The workmen were advised that the new windows were unauthorised and as such no further work other than to secure the Dormer, should be carried out. The next day the owner rang the office as requested and was advised that the work to replace the windows was unauthorised and the new windows fitted were not considered suitable or in keeping with the character of the properties within the

- 2.4 A meeting, arranged for 16th October, was attended by the owner of the house, the Conservation Officer and the Enforcement Officer. The owner confirmed that he lets out the property and was unaware that planning permission was required for any alterations made on the property or that the Article 4 Directive was in operation within the area.
- 2.5 The reasons behind the Article 4 Directive and the standards expected on any alterations to properties within the Conservation Area were carefully explained to the owner and he was also advised that on its inception, every property within the Article 4 area had received a letter of information explaining the Article 4 Directive and all planning issues relating to it. A photograph showing the front of every house was also taken, just before the Article 4 Directive was adopted, for formal identification purposes.
- 2.6 It was explained to the owner that the Council is trying to be fair and consistent in its approach to these matters and would work with Owners where ever possible to ensure a satisfactory conclusion but the owners also needed to show a level of commitment that they were willing to work within the guidelines and act accordingly. The owner appreciated this and asked for more time, possibly a year, to change the windows, to take out all the unauthorised windows and replace them with more suitable ones, to be approved by the Council. It was suggested an Application be submitted by the owner to this effect, which could contain a Legal Agreement and/or Conditions with instructions giving the time period allowed.
- 2.7 To date no application or further information has been received from the owner of the property regarding the matter.
- 2.8 Officers acknowledge that a considerable amount of time has passed since the breach was first noticed. It also acknowledges that delays have occurred in trying to take further action against this site. Since the creation of the new enforcement team processes are being introduced to identify these delayed cases and take further action and ensure that similar delays no longer happen.
- 2.9 Enforcement action in respect of all breaches of planning control is subject to time limits – 4 years for operational development and 10 years for change of use, the onus is on the owner to prove this. In this case no evidence has been produced by the owner to show that the works were carried out more than 4 years ago. It is considered that on the balance of probability, the lack of evidence submitted by the owner and information held by the Council is sufficient to consider that the works were carried out within the last 4 years.

2.10 The house, showing the windows as they were at the time when the Article 4 restrictions were imposed, along with the windows as recently replaced, and subject of this report, are shown in the photographs below.

Original Windows and Frontage – December 2005



Replacement Windows and Frontage



3. ASSESSMENT OF THE BREACHES OF CONTROL
 - 3.1 On closer inspection, it can be seen that the original bay windows to the ground and first floor, and the top-opening single windows adjacent to them, have also been replaced, since the Article 4 Directive came into operation. The bay windows were white uPVC apart from the two side sections of the ground floor bay which were wooden framed traditional sash opening. These traditional style sash windows are an important feature in the many Victorian and Edwardian villas within the Nether Edge Conservation Area. The replacement white uPVC windows are considered to have a better appearance than the former ones because of their design, which is more in keeping with the character of the Conservation Area.
 - 3.2 The replacement brown uPVC window to the 2nd floor and the Dormer window, together with the Dormer's casing also give a detrimental appearance to the house.

- 3.3 The Local Planning Authority consider that the retention of the brown uPVC windows as installed by reason of their external appearance, poor detailing and material, gives rise to an unsatisfactory appearance, and therefore fails to preserve or enhance the character of the Nether Edge Conservation Area and is therefore contrary to the aims of policies BE5, BE15 and BE17 of the Unitary Development Plan. The replacement white uPVC windows are considered to be acceptable.

4. ASSESSMENT OF ENFORCEMENT OPTIONS

- 4.1 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 suspected breach of control and property ownership. It also gives an opportunity for the developer 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 we already have details of ownership and the dates and nature of the breach. Furthermore we have already discussed the options with the owner so a PCN is unlikely to prove useful.
- 4.2 Section 172 of the Act provides for the service of an enforcement notice, (EN). In this case such a notice would require remedial measure to ensure that the perceived harm is remedied. In this case this would be that the Windows should be replaced with wooden sash windows substantially similar to those removed and previously in place.

5. EQUAL OPPORTUNITIES

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

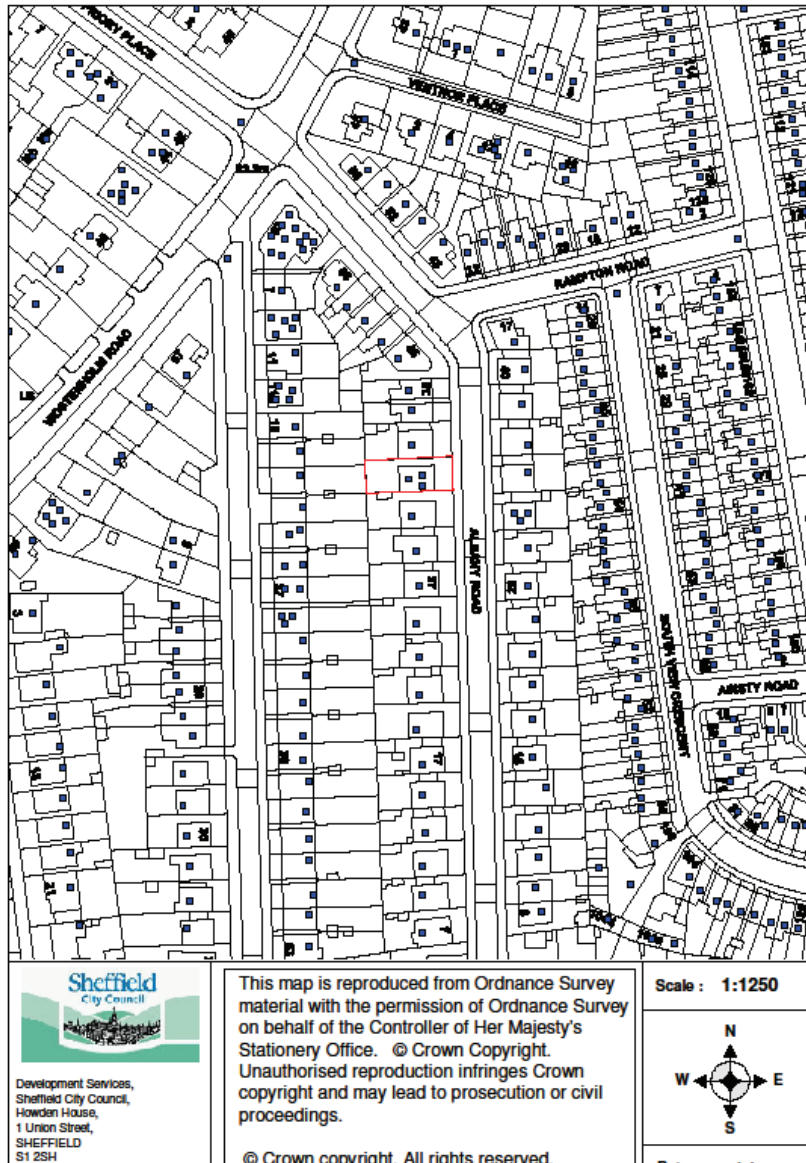
6. FINANCIAL IMPLICATIONS

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

7. RECOMMENDATION

- 7.1 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 the removal of the unauthorised windows to the front of 33 Albany Road.

SITE PLAN
33 Albany Road, Sheffield, S7



Dave Caulfield
Head of Planning

31st July 2012

