



SHEFFIELD CITY COUNCIL City Centre, South & East Planning & Highways Committee

Report of: Director of Development Services

Date: 4 FEBRUARY 2013

Subject: Enforcement Report

Author of Report: Adam Chapman

Summary: Unauthorised formation of self contained flats at first floor level of the former Windsor Hotel Public House, 35-39 Southend Road Sheffield S2 5FS

Reasons for Recommendations:

The owner is not making any attempt to resolve this issue and it is now considered that the matter should be reported for further enforcement action.

Recommendations:

That authority be given to the Director of Development Services or Head of Planning to take all necessary steps, including enforcement action, service of a stop notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the upper floor of the premise as self contained flats.

To delegate to the Director of Development Services or the Head of Planning power to authorise the taking of all necessary steps, including enforcement action, service of a stop notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the upper floor of the former Windsor Hotel as self contained flats.

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

DEVELOPMENT SERVICES

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

4TH FEBRUARY 2013

ENFORCEMENT REPORT

UNAUTHORISED FORMATION OF SELF CONTAINED FLATS AT FIRST FLOOR OF THE FORMER WINDSOR HOTEL PUBLIC HOUSE 35-39 SOUTHEND ROAD, SHEFFIELD, S2 5FS.

1. PURPOSE OF REPORT

- 1.1 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 AND BREACH

- 2.1 The former Windsor Hotel is a two storey detached building previously used as a public house at ground floor and associated residential property at first floor. The property is located within a Local Shopping Area as designated in the Sheffield Unitary Development Plan.

- 2.2 A complaint was received in August 2012 regarding works which were being undertaken within the building. After further investigations it has been determined that the first floor has been converted from 1 flat (which was associated with the operation of the ground floor of the premises as public house) to the creation of a number of self contained first floor flats.

- 2.3 The owner was informed that planning permission would be required to form multiple flats at first floor level. The owner confirmed that the works were on going and a formal planning application would be submitted in due course to regularise the works. However, to date, no such application has been received.

- 2.4 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, except for the change of use of buildings to use as dwellinghouses. Approximately 5 of the flats have been occupied since August 2012. A Planning Contravention Notice (PCN) will be served requesting further information and to determine how many flats have been provided.

3. ASSESSMENT OF BREACH OF CONTROL

- 3.1 The site is located at the junction of Southend Road within a Local Shopping Area, commercial properties are located either side of site and the wider area is residential in character.
- 3.2 Following a site visit it is evident that a number of self contained flats (approximately 6 flats) have been formed at first floor level. No detailed plans have been submitted for consideration.
- 3.3 The use of the first floor of the building as flats (Use Class C3) is an acceptable use in principle accordance with UDP Policy S7 (Development in District and Local Shopping Centres).
- 3.4 The upper floor flats are accessed from a door located in the side elevation that provides access to the upper floor via a stair well. A number of flats do not have adequate natural light or provide suitable outlook or living conditions which is considered contrary to policy S10 (b) of the UDP.
- 3.5 The site benefits form some external space to the side of the property, however this area is currently filled with waste associated with the construction works, but could be laid out to provide a communal area if required for the flats.
- 3.6 Ideally, one car parking space per flat should be provided in accordance with the Council's Car Parking Guidelines. However, the site is in a sustainable location and there is an opportunity to provide some allocated parking on the site frontage if required.
- 3.7 The development represents an acceptable land use in the Shopping Area. Adequate provision can be made for car parking and external amenity space but living conditions of a number of the flats are considered to be unacceptable due to the absence of any outlook from habitable rooms. This in turn does not provide adequate levels of natural light or outlook to meet the basic requirements for living accommodation.
- 3.8 An assessment of any insulation measures between the flats and the public house below is also required to determine if residents would be affected by noise and disturbance.
- 3.9 The photo image shows the entrance to a bedroom that has no external windows in one of the flats, which shows the absence of any outlook and natural lighting to the habitable bedroom and demonstrates that the unauthorised flats provide poor living conditions for the occupants.



4. REPRESENTATIONS

4.1 No representations have been received to this matter.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

5.1 The service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue Enforcement Notices where there has been breach of planning control. In this case the notice would require the cessation of the use of the building as self contained flats. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. However it is considered that the Council would be able to defend any such appeal. A Planning Contravention Notice (PCN) will be served requesting further information about the use of the building and number of flats provided.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from the recommendations of this report

7. HUMAN RIGHTS ACT 1998

- 7.1 The proposed enforcement action will mean the removal of somebody's living accommodation. Members will need to consider the following.
- 7.2 Article 8 of the Act refers to the Right to respect for private and family life.
- a. Everyone has the right to respect for his private and family life, his home and his correspondence.
 - b. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 7.3 Article 1 (First Protocol)
- 7.4 Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.
- 7.5 The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.
- 7.6 The rights protected by Articles 8 and 1 (First Protocol) in the 1998 Act are qualified in terms of restrictions imposed in the public interest. In this case the interference with the rights of any occupiers of the building is in accordance with planning law and is legitimate and proportionate to the breach of planning control. The use of the building as 7 flats is only possible due to unauthorised development contrary to planning policies set out in this report.
- 7.7 As previously stated in section 3, the poor quality of the living accommodation is unacceptable development. It is therefore in the wider public interest to ensure the cessation of the unauthorised use; interference with the occupiers Human Rights is necessary and justified because of the poor living conditions of the occupants.
8. EQUAL OPPORTUNITY IMPLICATIONS
- 8.1 There are no equal opportunities implications arising from the recommendations of this report.
9. RECOMMENDATIONS

9.1 That authority be given to the Director of Development Services or Head of Planning to take all necessary steps, including enforcement action, service of a stop notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the upper floor of the premise as self contained flats.

9.2 To delegate to the Director of Development Services or the Head of Planning power to authorise the taking of all necessary steps, including enforcement action, service of a stop notice and the institution of legal proceedings, if necessary, to secure the cessation of the use of the upper floor of the former Windsor Hotel as self contained flats.

9.3 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

D Caulfield
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4 February 2012



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