



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 13 August 2013

Subject: Enforcement Report

Author of Report: Khalid Mahmood

Summary: Unauthorised use of garden area for the storage of building materials and machinery at 60 Clifton Crescent, Sheffield, S9

Reasons for Recommendations:

No attempt is being made by the occupier to resolve this issue and it is now considered that the matter should be reported for further enforcement action.

Recommendations:

Authority be given to the Director of Regeneration & Development Services or Head of Planning to take all necessary steps:

- a) 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 garden area as a builders storage yard and the removal of the building materials and machinery from the garden area and the garage.
- b) Including the service of a S215 Notice and the institution of legal proceedings, if necessary, secure the removal of all the other waste materials currently stored on the site. These materials include but are not limited to plastic containers, chairs, punch bag, metal flue, fridge freezer, tyres and household waste.

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

13 AUGUST 2013

ENFORCEMENT REPORT

UNAUTHORISED USE OF GARDEN AREA FOR THE STORAGE OF BUILDING MATERIALS AND MACHINERY AT 60 CLIFTON CRESCENT, SHEFFIELD, S9.

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 representations on any further action required.

2. BACKGROUND AND BREACH

- 2.1 60 Clifton Crescent is a traditional two storey brick built semi-detached property within a residential area. The property has a small front garden and a large rear garden with a detached garage. The rear garden is constructed from a concrete base hard standing with the bottom part of the garden area laid with crushed stone and brick. The property is located within a Housing Area as designated in the Sheffield Unitary Development Plan and the bottom of the garden is also adjacent to the Green Belt.
- 2.2 A number of complaints have been received regarding this property in the past which have been investigated and the case subsequently closed. However, in May 2012 a further complaint was received regarding the use of the property as a builder's yard and the untidy condition of the garden area. A number of site visits have been carried out since 2012. These visits have revealed that on most occasions there have been building materials such as breeze blocks, concrete mixer, wheel barrow and scaffolding at the property and in some cases concrete lintels, mini diggers and a dumper truck being stored at the property. The site visit also highlighted that some of the machinery and materials did not move from the property for several months.
- 2.3 The owner has stated that the storage of these materials is due to works being carried out at the property and the potential future works to the garage and the rear extension. Officers have noticed some works being carried out at the property, however, the pace and type of work being carried out does not reflect the materials and machinery stored at the property. It is officer's opinion that the lack of traditional domestic environment and the scale and intensity of the storage is in excess of what could reasonably be considered to be incidental to the enjoyment

of the dwelling house and therefore a material change of use has occurred.

3. ASSESSMENT OF BREACH OF CONTROL

- 3.1 The site is located within a Housing Area as designated in the Sheffield Unitary Development Plan.
- 3.2 The use of the garden for the storage of building materials and machinery would require a change of use of the garden area to a mixed use of residential and open storage/builders yard (sui generis)
- 3.3 It is considered that the storage of materials and machinery is an inappropriate use of land within this Housing Area. The loading and unloading of materials and equipment from the back of vehicles could be a source of excessive noise and disturbance for the living conditions of the neighbouring residents, as well as being visually intrusive.
- 3.4 Unitary Development Plan Policy H10 states that the use of land for open storage purposes in housing areas is unacceptable because such uses harm living conditions for people living nearby. They also attract frequent use of heavy vehicles in housing areas and are liable to cause noise nuisance and is out of character with residential areas.
- 3.5 The Photographs below show the property in question and clearly demonstrates the use is unacceptable in this residential area and the scale is not of a domestic nature.



4. REPRESENTATIONS

- 4.1 A number of complaints have been received from local residents. The complainants have concerns about the garden area being used for commercial purposes without consent and the noise and nuisance that is caused by the use of garden in this manner, as well as its untidy state.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 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 garden area as a builder's and general storage yard and the removal of all the materials and machinery. 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.
- 5.2 Section 183 of the Town and Country Planning Act 1990 provides for the service of a Stop Notice in conjunction with an Enforcement Notice, (S172). The Stop Notice would take effect within 3 days following the date of service, and an offence would be committed for any failure to comply with the Stop Notice. In this case it is considered not to be appropriate to serve a Stop Notice unless the use intensifies before the Enforcement Notice comes into effect; such a notice could be served to stop the use. A successful appeal against a stop notice can lead to a costs award against the Council for any losses incurred because work was stopped, but only if there was found to be no breach of control, or the notice is withdrawn.
- 5.3 The Town and Country Planning Act 1990 enables the Local Planning Authority to issue a Section 215 Notice where the Council believe that the site has an adverse effect on the amenity of the neighbourhood. In this case it is considered that Section 215 is the appropriate action to secure the removal of all the other waste materials currently stored on the site, which will not be covered within the enforcement notice. These materials include but are not limited to plastic containers, chairs, punch bag, metal flue, fridge freezer, tyres and household waste. There is a right of appeal to the Magistrates Court against the service of a Section 215 Notice. However it is considered that the Council would be able to defend any such appeal.
- 5.4 If the owner or occupier of the land, on whom the notice is served, fails to take the steps required by the notice within the period specified in it for compliance, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. The Council may also enter the land and take those steps and may recover from the then owner of the land any expenses reasonably incurred by the Council in doing so.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the recommendations of this report, unless the Council take direct action, in which case a charge would be placed on the property register.

7. EQUAL OPPORTUNITY IMPLICATIONS

7.1 There are no equal opportunities implications arising from the recommendations of this report

8. RECOMMENDATIONS

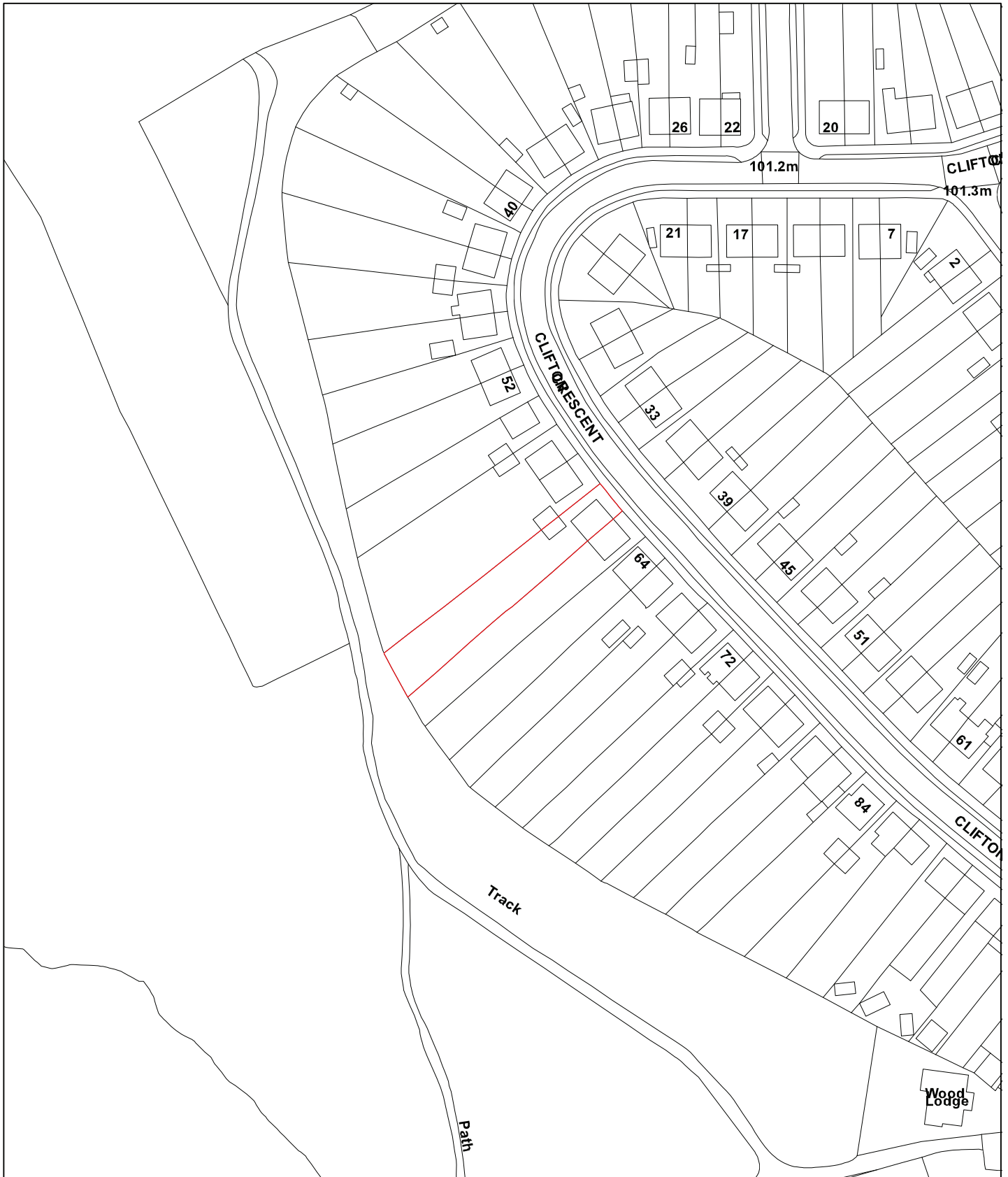
8.1 That authority be given to the Director of Regeneration & Development Services or Head of Planning to take all necessary steps:

- a) 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 garden area as a builders storage yard and the removal of the building materials and machinery from the garden area and the garage.
- b) Including the service of a S215 Notice and the institution of legal proceedings, if necessary, secure the removal of all the other waste materials currently stored on the site. These materials include but are not limited to plastic containers, chairs, punch bag, metal flue, fridge freezer, tyres and household waste.

8.2 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
Head of Planning

2 August 2013

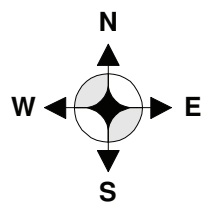


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Scale : 1:1250



Date: 15 August 2010