



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Regeneration and Development Services

Date: 03 September 2013

Subject: Enforcement Report

Author of Report: Lee Brook

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.

Reasons for Recommendations

The unauthorised extension is contrary to policy H14 of the Unitary Development Plan and guideline 5 of Supplementary Planning Guidance on Designing House Extensions

Recommendations:

That the Director of Regeneration and 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 rear extension at 36 Stanwood Crescent.

The Head of Planning is designated 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

UNAUTHORISED CONSERVATORY AT 36 STANWOOD CRESCENT, STANNINGTON.

1. PURPOSE OF THE REPORT

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. LOCATION

- 2.1 The house is set in a 1930's residential estate of semi-detached style houses, built between Wood Lane and Stannington Road.

3. BACKGROUND

- 3.1 A complaint was received about a large conservatory, which was already completed, (after 30th May 2013). A visit confirmed that the conservatory projects from the rear of the house by 5.7m and that it was erected without planning permission and in contravention of the new prior notification procedure contained in the new *Town and Country Planning (General Permitted Development) (Amendment) Order 2013 – 'GPDO'* as it relates to household development.
- 3.2 The owner has pointed out that an existing 3.4m projecting timber framed conservatory has been demolished to make way for this new upvc framed 5.7m projecting conservatory. This is not disputed by the complainant.
- 3.3 The GPDO has been amended for a temporary period of 3 years, (from 30/5/13 to 30/05/16), to allow larger rear extensions than would otherwise be allowed under the household 'permitted development', (PD) that was brought into force in 2008. In the case of a semi-detached house, under new PD rights a single storey extension at the rear of the house can project up to 6m without the need to apply for planning permission provided certain conditions in the GPDO are complied with. Previously the maximum allowed was a 3m projection under Class A.1 (e). The GPDO is amended as of 30/5/13 by the insertion after of a new line under 'A.1 (ea)', which describes the circumstances and conditions of when larger extensions are allowed.

- 3.4 One of the conditions under the new PD is that a prior notification process should be followed whereby the developer must send details of the proposal to the Local Planning Authority (LPA). The LPA then would notify immediate neighbours about the proposal and if no representations are made in response the development can proceed as PD.
- 3.5 If an objection is received then the 'prior approval' of the LPA is required for the development. At this point the LPA must consider the impact of the proposal on the amenity of all adjoining premises.
- 3.6 In this case the extension, (conservatory), was begun and completed without the LPA being notified. This extension falls within the 6m limit set out in the new household PD, however because the LPA was not notified it does not benefit from the PD conditions and is therefore unauthorised. In addition, an objection has already been received from a neighbour so the approach taken by officers in this matter is to assess any harm caused by the impact of the conservatory on the amenity of all the occupiers of neighbouring property.

4. ASSESSMENT

- 4.1 The recently constructed conservatory projects 5.7 metres beyond the original rear elevation of no.36 and it is 3 metres wide. It is set in close proximity to the boundary with the adjoining property no.34. It is built in an elevated position on top of an existing concrete patio, which also extends 5.7m from the house. This patio appears to be, and is being treated as, an original feature of the house. It is replicated at the neighbouring properties either side, (nos.34 and 38) and it stands at 1.1m above the garden level at the highest point, (point furthest from the house).
- 4.2 The development is of a standard appearance and is not visible within the public street scene as such it is not considered to detract from the appearance of the property itself or wider area.
- 4.3 The main issue to be considered relates to the scale of the conservatory and its impact on adjacent residential properties. The projection of the conservatory at 5.7 metres is far in excess of the 3 metres recommended in guideline 5 of the Supplementary Planning Guidance, (to the Sheffield Unitary Development Plan), on Designing House Extensions.
- 4.4 The development leads to a continuous wall of development along the common boundary with no.34 which is clearly visible above the existing boundary fence owing to the height of the conservatory. It is visible from the rear windows of no.34 with the greatest impact being to the dining room window at ground floor. It is also clearly visible from the patio and garden areas. It stands 4m above the patio of no.34, (and no.36) and it is approximately 5m higher than the garden area of no.34 (&36) owing to it being built above garden level on top of the existing

raised patio. It is considered that the height, projection and proximity to the boundary result in the development being very prominent when viewed from no.34 and it causes a detrimental overbearing impact which is harmful to the living conditions of the occupiers of that house.

- 4.5 It is noted that the conservatory is set slightly away from the common boundary and that no.34 has a small bay extension next to the boundary. These features could reduce the impact of the conservatory; however the scale of the development is such that they do little to reduce the overbearing impact of the new structure. A 2m high fence could be erected along the common boundary and therefore it is necessary to have regard to the difference between the impact of such a fence and the conservatory. The conservatory would still be visible above the height of a fence erected to the maximum 2m allowed under PD, particularly where constructed on the lower garden level. The impact of the unauthorised development is therefore greater than a PD fence would be.
- 4.6 It is recognised that the conservatory is a light weight structure and the glazing along the boundary with no.34 is obscure, thus preventing overlooking. However this does not overcome the impact of the continuous wall of development along the boundary with no.34 which is clearly visible from rear windows and from the garden area. Furthermore, when the lights are switched on inside the conservatory the structure will be more prominent and visible from the neighbouring property.
- 4.7 The extension is set away from the boundary with the other neighbouring property at no.38 by a sufficient distance to ensure that the development is not overbearing or overshadowing to residents of this property.
- 4.8 For the above reasons the conservatory as built is considered to cause an unreasonable overbearing impact to the neighbouring house at no.34, which is detrimental to the living conditions of that property. It is contrary to Unitary Development Plan Policy H14 (c) and Guideline 5 of the Supplementary Planning Guidance on Designing House Extensions.

5. REPRESENTATIONS

- 5.1 One complaint has been received from a neighbour about the overbearing impact of the conservatory.
- 5.2 The owner of no.36 wishes it to be known that this new conservatory replaces an existing timber framed one that projected 3.4m from the rear of the house and that the existing raised patio, (now built over), also gave clear views over the neighbouring property.

6. ASSESSMENT OF ENFORCEMENT OPTIONS

- 6.1 Section 171C of the Town and Country Planning Act 1990 provides for the service of a Planning Contravention Notice, (PCN). The notice requires information about the suspected breaches of planning control and about property ownership. It also gives an opportunity for the recipient to meet with officers to make representations. All relevant facts are known and a PCN is not required here.
- 6.2 Section 172 of the Act provides for the service of an Enforcement Notice (EN). In this case such a notice could require the removal of the unauthorised conservatory. If the conservatory was reduced in size to a 3m projection to comply with existing GPDO Class A.1 (e), described in paragraph 3.3, then it would fall within the limits of PD and no further action would be taken to enforce the removal of the remaining structure. As it stands the conservatory as a whole is unauthorised and the EN would require the removal of the whole unauthorised structure.
- 6.3 In planning law an enforcement notice takes 28 days from the date of issue to come into effect. This 28 day period allows the recipient an opportunity to appeal. An EN must give the recipient a minimum of 28 days to comply with its requirements. If the EN is appealed it will not come into effect, until that appeal is determined. If the appeal is dismissed the EN will come into effect immediately, on the date of the Inspectors decision and the compliance period will start from that same date. In this case a reasonable period for compliance is considered to be 3 months.

7. EQUAL OPPORTUNITIES

- 7.1 There are no equal opportunity implications arising from the recommendation in this report.

8. FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications arising from the recommendation in this report.

9. RECOMMENDATION

- 9.1 That the Director of Regeneration and 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 rear extension at 36 Stanwood Crescent.
- 9.2 The Head of Planning is designated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.



PHOTOS





David Caulfield
Head of Planning

6 August 2013

This page is intentionally left blank