

Report to Planning applications committee

Item

7 November 2013

Report of Head of planning services

5(4)

Subject Enforcement Case 13/00068/EXTEN/ENF – Heigham
News 268 Heigham Street, Norwich, NR2 4LZ

SUMMARY

Description: Unauthorised operational development; namely the siting of a shipping container at 268 Heigham Street, Norwich, NR2 4LZ

Reason for consideration at Committee: Enforcement Action recommended.

Recommendation: Authorise enforcement action up to and including prosecution and direct action in order to secure the removal of the unauthorised development (shipping container on land).

Ward: Mancroft

Contact Officer: Ali A N J Pridmore

INTRODUCTION

The Site

1. The site is located at 268 Heigham Street. It is within Mancroft Ward and is currently trading as Heigham News which is operating as a convenience store. The area is predominantly residential in character typified by two-storey brick built terrace properties. 268 Heigham Street is an end terrace property on the corner of Heigham Street and Horsford Street.
2. The property at 268 Heigham Street has a small rear yard which has in the last 12 months had a steel shipping container sited within it. The shipping container is being used by the owners of Heigham News as additional storage for their shop.
3. A narrow access pathway, which provides rear access to the neighbouring residential property at 270 Heigham Street, crosses the rear yard of 268 Heigham Street from Horsford Street. The site does not fall within a conservation area and the property is not nationally or locally listed.

Planning History

4. Advertisement Consent (App. No. 08/00765/A) was refused for 'Erection of 1 No. internally illuminated wall mounted advertisement display unit.' in 2008 on the grounds that the sign, location close to the roadside edge would represent an intrusive element in the street scene, creating a significant impact on

Heigham Street and Horsford Street, to the detriment of the visual amenities of the locality.

Purpose

5. This report relates to the unauthorised siting of a steel shipping container at 268 Heigham Street, Norwich, NR2 4LZ
6. As the current unauthorised structure described above does not have planning permission and has occurred within the last four years and is therefore not immune from enforcement action the change of use is classed as operational development for which planning permission would be required under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). Therefore the placing and continued use of the container represents a breach of planning control and is unlawful.
7. The owner of Heigham News of 268 Heigham Street has been informed in writing the development is unauthorised and he was asked to remove the unauthorised shipping container from the land. The owner was advised a retrospective planning application would not be supported. The unauthorised structure has not yet been removed by the owner and there is no expectation the owner will voluntarily remove the shipping container.
8. Authority is sought from the Planning Applications Committee for enforcement action to secure the removal of the shipping container from the land at 268 Heigham Street. Enforcement action is to include direct action and prosecution if necessary.

Breach

9. The siting of a metal shipping container is considered operational development for which planning permission would be required under section 171A(1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991). No such planning permission has been granted by the local planning authority and therefore the development is unauthorised and therefore a breach of planning control.
10. It appears to Norwich City Council that the above breach of planning control has occurred within the last four years and is not therefore immune from enforcement action. The current unauthorised development is an incongruous feature, out of place with its surroundings and is therefore considered detrimental to the local amenity. The Council do not consider that planning permission should be given because planning conditions could not overcome these objections.

Policies and Planning Assessment

Relevant Planning Policies

National Planning Policy Framework

7 – Requiring Good Design

- 8 – Promoting Healthy Communities
- 12 – Conserving and Enhancing the Historic Environment

Relevant policies in the Joint Core Strategy for Broadland, Norwich and South Norfolk (Adopted March 2011)

Policy 2 – Promoting good design

Relevant policies in the City of Norwich Replacement Local Plan – saved policies (Adopted November 2004)

EP22 – High standard of amenity for residential occupiers

HBE12 – High quality of design in new developments

Emerging policies of the forthcoming new Local Plan (submission document for examination, April 2013):

Development Management Policies Development Plan Document – Pre-submission policies (April 2013).

DM2 – Ensuring satisfactory living and working conditions

DM3 – Delivering High Quality Design

DM12 – Ensuring well planned housing development

Procedural Matters Relating to the Development Plan and the NPPF

11. The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF), both sets of policies have been subjected to a test of compliance with the NPPF. The 2011 JCS policies are considered compliant, but some of the 2004 RLP policies are considered to be only partially compliant with the NPPF, the policies, referred to in this case, are considered to be compliant with the NPPF. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF.

Justification for Enforcement

12. The shipping container is an incongruous feature, out of place with its surroundings and is therefore considered detrimental to the local amenity.
13. An attempt has been made in negotiating with the owner of business but without any success. Norwich City Council has not invited a planning application because the Council do not consider that planning permission should be given because the application would not be supported and the matter recommended for refusal.

Equality and Diversity Issues

14. The Human Rights Act 1998 came into effect on 2 October 2000. In so far as its provisions are relevant:
 - a. Article 1 of the First Protocol (the peaceful enjoyment of ones possessions), is relevant in this case. Parliament has delegated to the Council the responsibility to take enforcement action when it is seen to be expedient and in the public interest. The requirement to secure the

removal of the unauthorised building works in the interests of amenity is proportionate to the breach in question.

- b. Article 6: the right to a fair hearing is relevant to the extent that the recipient of the enforcement notice and any other interested party ought to be allowed to address the committee as necessary. This could be in person, through a representative or in writing.

Conclusions

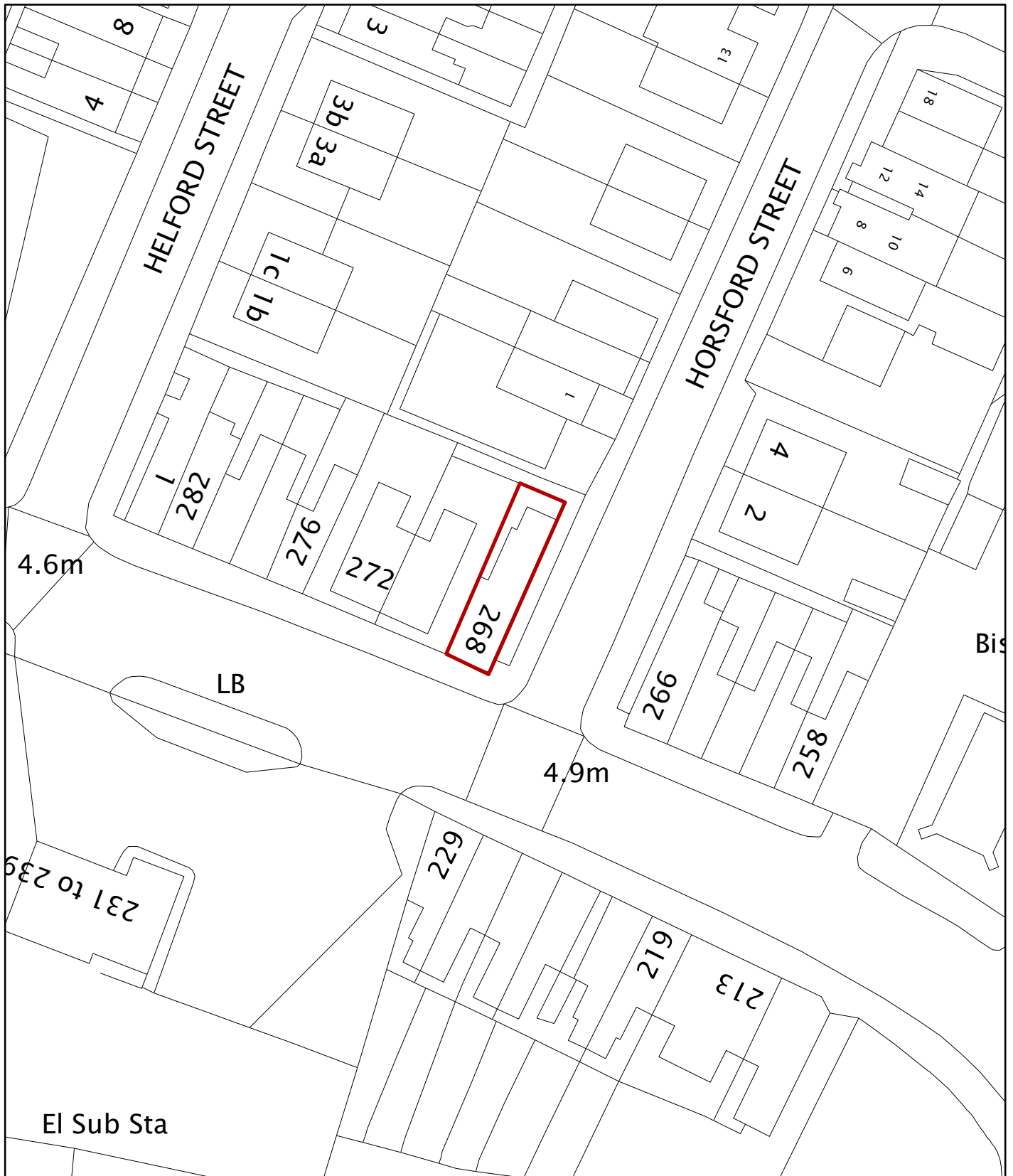
15. The current unauthorised development is an incongruous feature, out of place with its surroundings and is therefore considered detrimental to the local amenity and is not considered acceptable. The impact of this structure on the residential amenity is considerable and could not be made acceptable by conditioning of any planning permission for the structure.
16. It is therefore necessary to ask for authorisation from the planning applications committee to ensure the removal of the unauthorised structure and therefore remedy the breach of planning control.

Recommendations

17. Authorise enforcement action to secure the removal of the shipping container including the taking of direct action including prosecution if necessary.

Background Documents

Relevant correspondence: See Enforcement File 13/00068/EXTN/ENF



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Planning Application No 13/00068/EXTN/ENF
 Site Address Heigham News
 268 Heigham Street

Scale 1:500



NORWICH
 City Council

PLANNING SERVICES

