

Southend-on-Sea Borough Council

Agenda
Item

Report of the Corporate Director of Place
To
Development Control Committee
On
15th April 2015

Report(s) Enforcement of Planning Control

A Part 1 Public Agenda Item – Town and Country Planning Act 1990 Section 172

Reports prepared by: Enforcement Officers

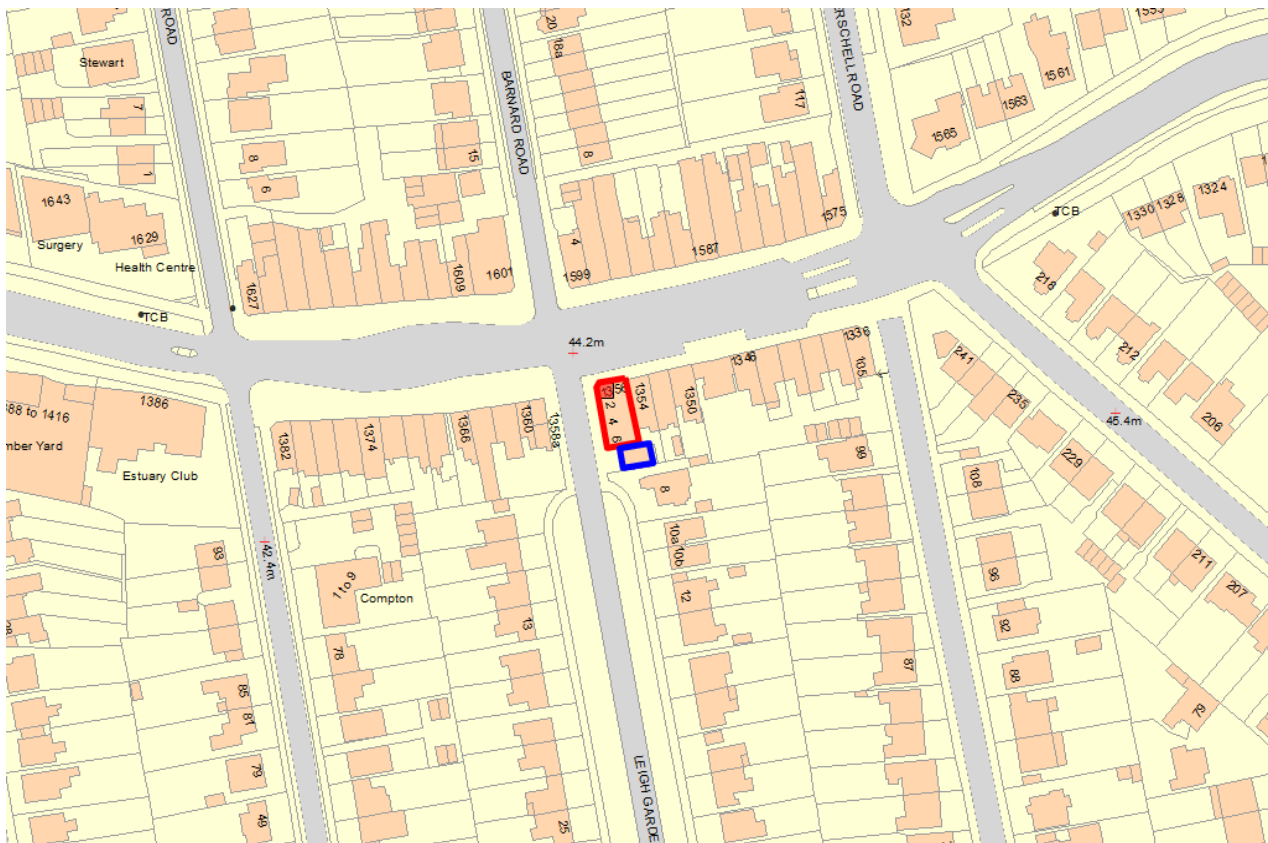
1 Introduction

1.1. This report relates to alleged breaches of planning control. Recommendations are made at the conclusion of each item.

WARD	APP/REF NO.	ADDRESS	PAGE
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Enforcement Report			
West Leigh	14/00177/UNAU_B	1356 London Road Leigh on Sea	2

Reference:	EN/14/00177/UNAU-B
Ward:	West Leigh
Breach of Control	Without planning permission, the erection of a single-storey front and side extension which fully encloses the existing outside seating area and 2 air conditioning units to the front elevation of the building at first floor level.
Address:	1356 London Road, Leigh-on-Sea.
Case Opened:	27 th July 2014
Case Officer:	Neil Auger
Recommendation:	AUTHORISE ENFORCEMENT ACTION



1 Site and Surroundings

- 1.1 Two-storey terraced building comprising restaurant at ground floor level with residential accommodation above occupying the corner plot lying to the southern side of London Road to the east of its junction with Leigh Gardens.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a restaurant within Class A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) with residential above (Class C3 of the Order).

3 Present Position

- 3.1 On 14th February 2014, a complaint was received by the Council in which it was alleged that a single-storey front and side extension, fully enclosing the existing outside seating area, had been constructed - apparently without the necessary planning permission.
- 3.2 A site visit was undertaken on 20th February 2014 by a planning enforcement officer when it was established that the allegation was correct. It was also noted that 2 air conditioning units had been installed to the front elevation of the building at first floor level – also without planning permission.
- 3.3 A letter was sent on 20th February 2014 informing the owner/occupier that planning permission was required to retain the development and advising that this may not, necessarily, be given.
- 3.4 A retrospective application for planning permission was received on 31st March 2014 and given the reference 14/00409/FUL.
- 3.5 Application 14/00409/FUL was refused under delegated powers on 25th July 2014 for the following reasons:

01. The front/side extension, by reason of its depth, height, form and prominent corner siting, appears as an awkward and obtrusive feature which is out of keeping with the character and appearance of the existing building and the streetscene and to the detriment of visual amenity contrary to Policy C11 of the Borough Local Plan.

02. The air conditioning units associated with the development result in loss of outlook and visual intrusion and likely noise to the occupiers of flats above the units to the detriment of their amenities contrary to Policies E5, C11 and H5 of the Borough Local Plan.

- 3.6 The application has not exercised his right to lodge an appeal against the Council's refusal of planning permission within 6 months of the decision date.

3.7 The unauthorised development remains in situ and is in constant use.

4 Appraisal

4.1 Planning permission was required for the erection of the single-storey front and side extension because the property has a lawful planning use as a restaurant which means it does not benefit from permitted development rights for operational development.

4.2 The single storey wrap-around front/side extension is visible in the streetscene both to London Road and Leigh Gardens. While it is recognised that there is an approved outside seating area with decking and awnings, the currently constructed extension has a solid and permanent appearance, in particular as it is fitted with a fixed roof, panelling, windows and a new street door with rainwater goods and air conditioning units above which connect directly into the extension.

4.3 The permanent enclosure of the former outside seating area has reduced the openness of the junction which was maintained with the previous open decking and retractable canvas awnings and this is considered to have had a negative impact on local character.

4.4 The windows in the structure are all non-opening and this has resulted in an unsightly addition of 2 air conditioning units installed on the frontage which are fixed to the extension by piping. This is considered to be poor design and detrimental to the streetscene and the residential amenities of the occupiers of the first floor flats.

4.5 Guttering has been fixed to the outside of the frame which is considered to be an unsightly addition not integral to the design.

4.6 The general design appears more as a temporary addition rather than a well designed extension. There also seems to be a conflict between the earlier extension to the side, which is of better quality, and the unauthorised development particularly in terms of roof design.

4.7 It is considered that the extension detracts from the original shopfront and fascia which is typical of the area and that it has a prominent impact in the streetscene at this corner location. It is further considered that it appears as an awkward addition to the building which is obtrusive adversely impacting on the visual amenity of the area.

4.8 There is also a concern that the unauthorised development could set an undesirable precedent for other shop units in the immediate area and further afield to undertake similar front and side extensions which could have a significant adverse impact on the character of the traditional shopping streets and the vitality to the streetscene which can be provided by having an outside display or outside seating area on the frontage.

- 4.9 The unauthorised front and side extension and air conditioning units are considered to be detrimental to the character and visual amenities of the area and the residential amenities of adjacent properties by reason of unsightliness and the potential for increased noise and disturbance contrary to the National Planning Policy Framework (NPPF), the National planning Practice Guidance (NPPG), Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance), Southend-on-Sea Borough Local Plan Policies E5 (Non-residential Uses Located Close to Housing), H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and the Design and Townscape Guide (SPD1
- 4.10 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

5 Relevant Planning History

- 5.1 29th October 1985 – permission granted to “install new shopfront and use shop as restaurant” (85/1153).
- 5.2 6th October 1999 – permission granted to “alter front elevation, form new porch/canopy over entrance, erect iron railings to enclose seating area” (99/00789/FUL).
- 5.3 6th March 2006 – permission refused to “demolish outbuilding, erect 2 storey detached building at rear to from dwelling and store, erect single storey side and rear extensions, form access ramp to side, install rooflights to front and rear, alter elevations and convert ground floor restaurant (Class A3) into restaurant (Class A3) and take away (Class A5) and lay out parking spaces at rear” (05/01699/FUL).
- 5.4 11th May 2006 – permission granted to “erect single storey rear and side extensions, alter front and side elevations with raised sitting out area” (06/00390/FUL).
- 5.5 13th December 2006 – permission granted to “erect single storey rear and side extensions, alter front and side elevations with raised sitting out area, balconies and external staircase at rear of flats (amended proposal) (retrospective)” (06/01321/FUL).
- 5.6 4th February 2009 – permission granted on appeal to “raise roof height and erect dormer to north elevation of outbuilding to rear to create new first floor to be used as office and store” (08/00074/FUL).

- 5.7 14th February 2012 – permission granted to “raise roof height and erect dormer to north elevation of outbuilding to rear to create new first floor to be used as office and store (application to extend the time limit for implementation following planning permission 08/00074/FUL allowed on appeal on 04/02/09)” (11/01741/EXT).
- 5.8 25th July 2014 – permission refused to “erect single storey front and side extension to enclose existing seating area (retrospective) (14/00409/FUL).
- 5.9 22nd January 2015 – application permitted for “approval of details pursuant to condition 03 (materials) of planning permission 11/01741/EXT” (14/01967/AD).
- 5.10 9th February 2015 – permission granted to “raise roof height and erect dormer to north elevation of outbuilding to rear to create first floor office and store to be used by existing restaurant (amended proposal) (14/02008/FUL).

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF).
- 6.2 The National planning Practice Guidance (NPPG).
- 6.3 Core Strategy (DPD1) Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance).
- 6.4 Southend-on-Sea Borough Local Plan Policies E5 (Non-residential Uses Located Close to Housing), H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations).
- 6.5 Design and Townscape Guide 2009 (SPD1).

7 Recommendation

- 7.1 **Members are recommended to: AUTHORISE ENFORCEMENT ACTION** to secure the removal of the single-storey front and side extension which fully encloses the existing outside seating area and the air conditioning units on the grounds that the unauthorised development is detrimental to the character and visual amenities of the area by reason of unsightliness and to the residential amenities of adjacent residential units by reason of loss of outlook and excessive noise and disturbance contrary to the National Planning Policy Framework (NPPF), the National planning Practice Guidance (NPPG), Core Strategy DPD Policies KP2 (Development Principles) and CP4 (The Environment and Urban Renaissance) BLP Policies E5 (Non-residential Uses Located Close to Housing), H5 (Residential Design and Layout Considerations) and C11 (New Buildings, Extensions and Alterations) and the Design & Townscape Guide (SPD1).

- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, the necessary remedial works would probably require quotes to be obtained and contractors to be engaged so a compliance period of 3 months is considered reasonable.