

Reference:	EN/17/00173/UNAU_B	
Ward:	Prittlewell	
Breaches of Control	Without planning permission, construction of single storey side extension to north side and single storey rear extension.	
Address:	365 Victoria Avenue, Southend on Sea, Essex. SS2 6NH	
Case Opened:	3 rd July 2017	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The site is on the south west corner of Victoria Avenue, Southend at its junction with Fairfax Drive and contains a two storey end of terrace building. Its ground floor consists of two self-contained hot food take away premises. „Superpizza“ facing onto Victoria Avenue and former „Kebabish“ facing onto Fairfax Drive. The first floor is understood to be in a residential use. The part of the site subject of this report is the former „Kebabish“ premises.

2 Lawful Planning Use

- 2.1 The lawful planning use of the property is considered to be as a hot food take away falling within Class A5 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Present Position

- 3.1 On 28th June 2017 a complaint was received alleging the installation of 3 columns with a lintel across at the above location. This installation is immediately next to the footpath in Fairfax Drive.
- 3.2 On 6th July 2017 Enforcement staff emailed the freeholder advising that the works required planning permission and to make contact urgently to discuss. The email also advised that no further works should take place.
- 3.3 On 19th July 2017 Enforcement staff sent a further email to the freeholder as no contact had been received. The email asked that they contact the Enforcement Officer as a matter of urgency.
- 3.4 On 20th July 2017 Enforcement staff formally wrote to the freeholder inviting a retrospective planning application to be submitted by 25th August 2017. The letter also advised that no further works should take place.
- 3.5 On 8th August 2017 Enforcement staff again emailed the freeholder asking for an urgent update.
- 3.6 On 11th August 2017 Enforcement staff attended the site to meet the freeholder. It was noted that works had continued to the side extension and the metal structure now had a roof installed. In addition to this a wooden framework had been attached to the rear of the property consisting of a roof plate secured to the rear wall and some wooden upright posts cemented into the ground. It appeared that this structure was intending to form a rear extension. The freeholder confirmed it was to be a storage shed.
- 3.7 On 14th August 2017 Enforcement staff wrote to the freeholder confirming that both the side structure and the rear structure required planning permission and extended the deadline for submission of a planning application to 8th September 2017. The freeholder was again advised to cease further works.

- 3.8 On 28th September 2017 Enforcement staff wrote to the freeholder advising him that a report would be submitted to the Development Control Committee
- 3.9 recommending enforcement action as he had failed to submit a planning application within the two deadlines given. He was asked to make contact with the Enforcement Officer to discuss.
- 3.10 On 29th September 2017 Enforcement staff noted that raised flooring had been installed inside the metal structure indicating that works were continuing.
- 3.11 On 17th October 2017 Enforcement staff attended the site and noted that solid style roller security shutters had been installed to the metal framework and decking protruded below the shutters at a height of 330mm immediately adjacent to the pavement. 4 wooden posts extend vertically from the decking at a height of 1.2 meters and appear to be supports for future balustrading.

4 Appraisal

- 4.1 Express planning permission is required for this development because both the side and rear extensions constitute operational development as defined by the Town and Country Planning Act 1990 (as amended) and the works do not constitute permitted development.

5 Policy Considerations

- 5.1 The key issues raised by this unauthorised development are: the design and visual impact of the structures, their impact on the streetscene and character of the surrounding area and their impact upon amenity more widely.
- 5.2 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the National Planning Policy Framework 2012 (NPPF), in Policy DM1 of the Development Management Document and in Policies KP2 and CP4 of the Core Strategy. The Design and Townscape Guide also states that “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”
- 5.3 The NPPF states that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”
- 5.4 Policy DM1 states that development should “add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.”
- 5.5 Policy KP2 of Core Strategy (CS) states that new development should “respect the character and scale of the existing neighbourhood where appropriate”. Policy CP4 of CS requires that development proposals should “maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”.

5.6 Paragraph 398 of the Design and Townscape Guide (2015) states that:

Shopfronts must reflect the scale and character of the whole building and generally aim to enhance the streetscene. Whilst large garish signs and over proportioned shopfronts may initially draw attention to a particular shop, they impinge on and dilute architectural details and will be „lost“ when adjoining shops follow suit. The streetscene will then generally appear devoid of character and disjointed.

6 Planning Considerations

6.1 The metal structure fronting onto Fairfax Drive by reason of its stark, basic, utilitarian and poor quality design and appearance is an incongruous, unsightly and obtrusive structure which results in demonstrable harm to the character and appearance of the streetscene compounded by its position at this prominent junction. It is unsympathetic to its surroundings and responds negatively to local character contrary to Policies DM1 and DM3.

6.2

The rear structure, although not complete, may possibly be considered acceptable in planning terms dependant on its eventual design and quality of finish and materials used. As the finish and its use cannot be determined at this time and mindful of the lack of planning application to date and poor quality unauthorised development undertaken along the site frontage it is considered that there is a material risk that this extension could cause demonstrable harm to the visual amenities of the area. The case for supporting this view is supported further by the fact that this element of the works can be seen from points along the public highway. A condition could be imposed to require certain materials to be used but in the absence of a planning application to control this it is considered reasonable, and expedient to take enforcement action.

6.3 Taking enforcement action in this case may amount to an interference with the owner/occupiers“ human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to require the unauthorised residential to cease.

7 Planning History

7.1 There is extensive planning history related to the comprehensive redevelopment of the Roots Hall football ground site but none directly relevant to the unauthorised development subject of this report.

8 Recommendation

8.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to secure (a) The removal of the side extension, (b) the removal of the rear structure. (c) the removal of all rubble, materials and equipment associated with complying with the notice.

- 8.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 8.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, a compliance period of 2 months is deemed reasonable for the removal of the unauthorised structures.



Wall plate and joist at rear of premises



Wall plate and joist at rear of premises



Wood roof support cemented into ground at rear of premises



Side Extension viewed from Fairfax Drive



Side Extension viewed from west side



Side Extension viewed from east side