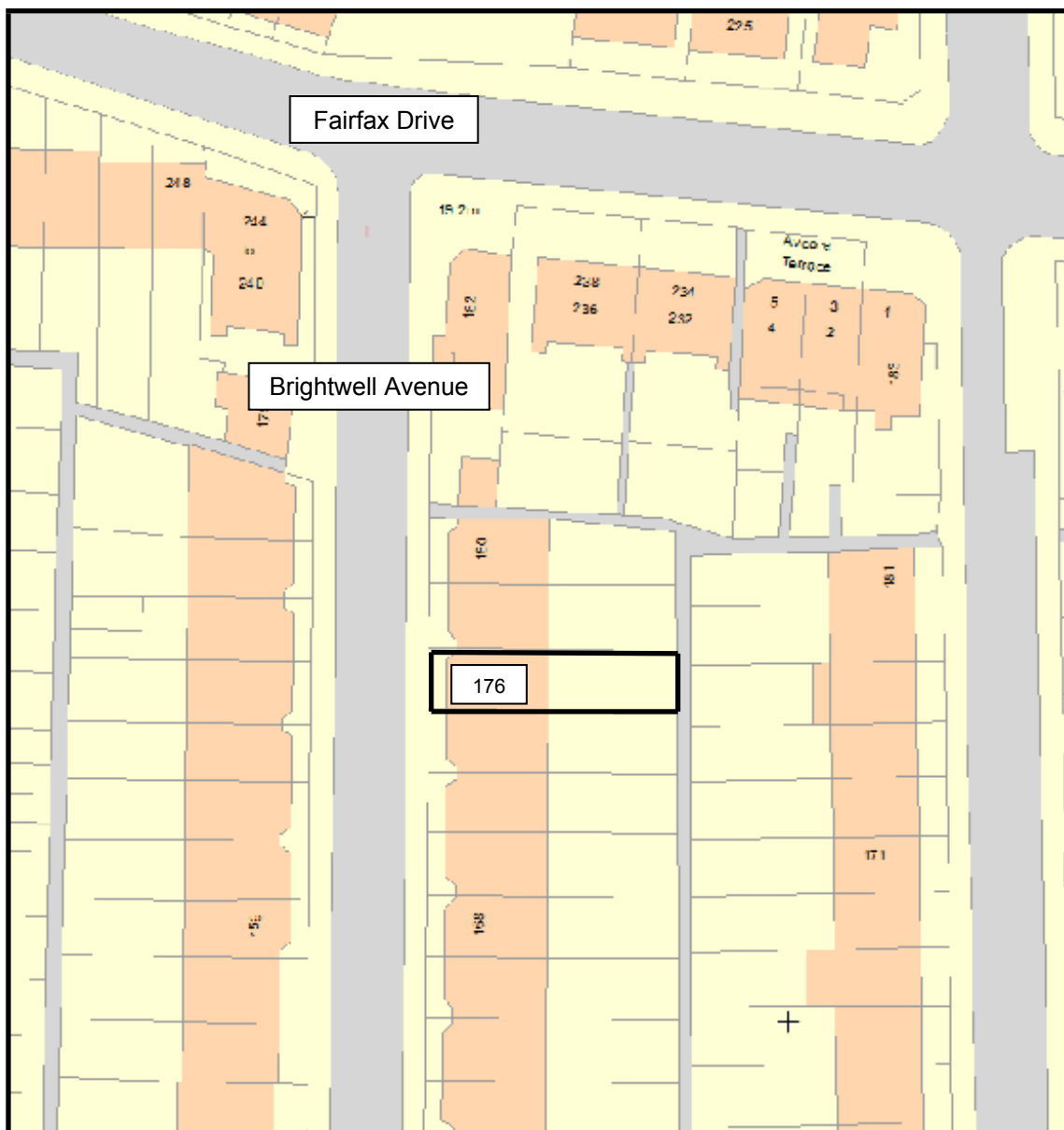


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| Reference: | EN/17/00283/UNAU_B | |
| Ward: | Westborough | |
| Breaches of Control | Without planning permission, construction of a single storey rear extension. | |
| Address: | 176 Brightwell Avenue, Westcliff on Sea, Essex. SS0 9EH | |
| Case Opened: | 2 nd November 2017 | |
| Case Officer: | Steve Jones | |
| Recommendation: | AUTHORISE ENFORCEMENT ACTION | |



1 Site and Surroundings

- 1.1 The site is on the east side of Brightwell Avenue approximately 50m from its junction with Fairfax Drive. The property is a ground floor flat in a purpose built, 2 storey, terraced building comprising of 2 flats.

2 Lawful Planning Use

- 2.1 The lawful planning use of the property is considered to be for residential purposes falling within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended).

3 Present Position

- 3.1 On 30th October 2017 a complaint was received alleging the construction of a rear extension without planning permission. It was alleged that a boundary fence was acting as one of the walls.
- 3.2 On 16th November 2017 enforcement staff conducted a site visit and met with the tenant occupiers of the property.
- 3.3 An infill extension has been constructed between the existing outrigger of the ground floor and the boundary fence, constructed of thin wooden framework with a corrugated plastic roof and plastic sheeting for the walls. It incorporates the boundary fence to the north side which acts as structural support as well as forming a side wall.
- 3.4 The extension measures 4.7m in length and is 2.3m wide. The height varies from approx. 3.5m to 2.7m
- 3.5 The occupiers confirmed they had built the structure but were under the impression it didn't require planning permission as they were not living in it. The regulations regarding why the structure did require planning permission were explained to the occupants.
- 3.6 On 17th November 2017 enforcement staff wrote to the occupants and other interested parties seeking that the unlawful extension be removed within 28 days or risk formal planning enforcement, as it was considered that planning approval would not likely be granted given the poor quality appearance and impact of the structure.
- 3.7 As of 10th January 2018 the structure remains in situ and the occupiers have made no further contact with enforcement staff.

4 Appraisal

- 4.1 Express planning permission is required for this development because the rear extension constitutes operational development as defined by the Town and Country Planning Act 1990 (as amended), the property is a flat and consequently the works do not benefit from permitted development rights.

5 Policy Considerations

- 5.1 The issues raised by this unauthorised development are: the design and visual impact of the structure and its impact on the rear garden scene and character of the surrounding area.
- 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 the 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”.

6 Planning Considerations

- 6.1 The construction of the extension using thin wooden framework, plastic corrugated roofing and plastic sheeting to form the walls mean none of the materials match the existing host property which is mainly painted render. This inconsistency demonstrates that the unlawful extension is unacceptable in terms of its design. Its basic, poor quality flimsy design and appearance is incongruous and unsightly which results in demonstrable harm to the character and appearance of the rear garden scene as the structure is visible from adjoining gardens and also from the upper floor windows of adjacent premises. It is unsympathetic to its surroundings and responds negatively to local character contrary to Policies DM1, DM3, KP2 and CP4. The development is also harmful to the residential amenities of the neighbouring occupiers to the north at 178 Brightwell Avenue in terms of causing an unacceptable sense of enclosure and loss of daylight and outlook. This concern also represents a conflict with those development plan policies. It is therefore considered reasonable, and expedient to take enforcement action.

6.2 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 removal of the unauthorised extension.

7 Planning History

7. There are no relevant planning applications for this site.

8 Recommendation

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

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.

8.2 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, a compliance period of 1 month is deemed reasonable for the removal of the unauthorised extension.



View of unlawful extension from rear garden



View of corrugated roof of unlawful extension.