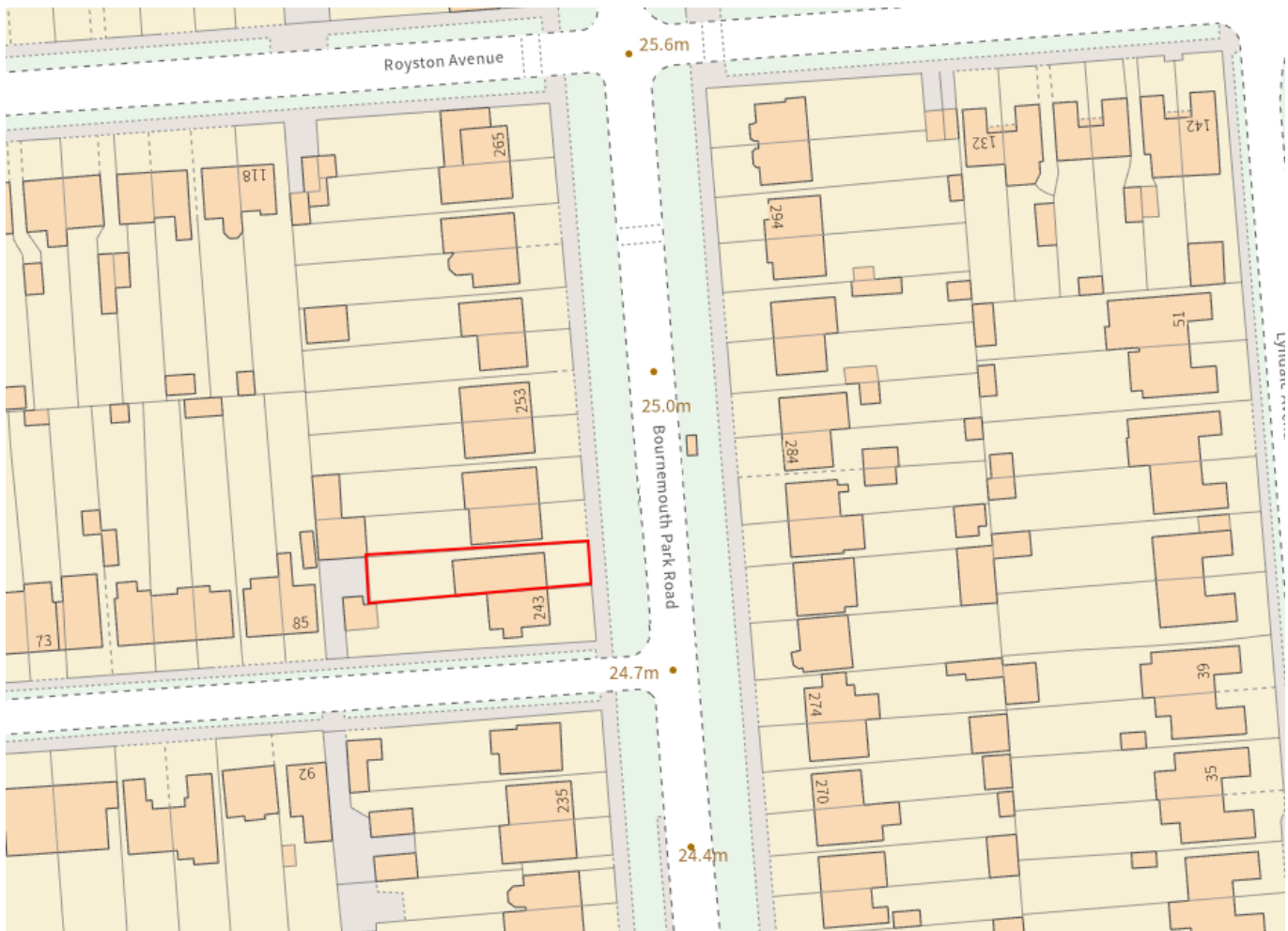


Reference:	20/00230/UNAU_B	
Report Type:	Enforcement	
Ward:	St Lukes	
Breach of Planning Control:	Erection of lean-to/canopy to rear	
Address:	245 Bournemouth Park Road, Southend-on-Sea, Essex, SS2 5LD	
Case Opened Date:	05.08.2020	
Case Officer:	Hayley Thompson	
Recommendation:	AUTHORISATION TO CLOSE CASE	



1 Site and Surroundings

- 1.1 The site is to the west of Bournemouth Park Road and is occupied by a semi-detached dwelling. The surrounding area is residential in nature consisting mainly of semi-detached two-storey dwellings of similar scale and design. The dwelling has an existing single storey rear extension with a balcony above.
- 1.2 The site is not within a conservation area or subject to any site-specific planning policies.

2 Lawful Planning Use

- 2.1 The lawful planning use of the site is as a dwelling within Class C3 of the Town and Country Planning (Use Class Order) 1987 (as amended).

3 Relevant Planning History

- 3.1 The most relevant planning history of the application site is shown in Table 1 below:

Reference	Description	Outcome
21/01515/FULH	Erect lean-to extension to rear (Retrospective)	Refused
22/02467/FULH	Install canopy and fencing to rear (part-retrospective)	Refused
20/00230/UNAU_B	Enforcement Notice	Issued on 14.12.2022 Took effect on 11.01.2023

4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2023)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM15 (Sustainable Transport Management)
- 4.6 The Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because officers consider it would not be expedient to seek further action to secure further compliance with the enforcement action previously authorised by the Committee.

6 The planning breach

6.1 The identified breach of planning control is:

- The erection of a lean-to/canopy to the rear.

7 Efforts to resolve the breach to date

7.1 In July 2022, this enforcement case was presented at Development Control Committee seeking authorisation to take enforcement action. An enforcement notice was served and on 11th January 2023, it took effect, giving the owner 3 calendar months to comply with the notice. The Enforcement Notice is attached as Appendix A.

7.2 A site visit was recently conducted, this has established that the structure has been altered in scope through the detachment of the canopy from the existing rear extension. The felt roof of the canopy has been replaced with a clear plastic roof and high level timber cladding has been removed from the southern flank elevation.

8 Appraisal of the harm caused

8.1 Planning permission was refused, reference 21/01515/FULH to retain the unauthorised canopy. It was found that the canopy had been added to an existing projection of solid form and the flat roofed form of the extension, use of materials (timber and felt roof) failed to respect the traditional architectural form and appearance of the main dwelling.

8.2 Although the enforcement notice has not been fully complied with, through removal of the canopy in full, were the owner to submit an application to formalise the alterations made to the structure as outlined above, and in which the canopy has been detached from the extension, staff consider that they would be highly likely to be approved. Staff are also mindful that the submission of a planning application should not be insisted upon in such technical cases of limited consequence.

8.3 The canopy, which has been detached from the existing extension to the rear, would now benefit from a permitted development fallback position. The structure would be considered under Class E of the General Permitted Development Order as a detached building or enclosure and not under Class A as an extension to the dwelling, which formed the basis of the original assessment.

8.4 In the absence of any identified harm, staff consider that the original breach has been adequately addressed and that it is proportionate and justified in the circumstances of the case to close this enforcement case. The enforcement notice will stay on the land and it is not recommended to withdraw it. However, given that taking legal action for non-compliance with the requirements of an enforcement notice is discretionary and has to satisfy the public interest test, the Local Planning Authority is entitled to close the case in the circumstances of this case.

Equality and Diversity Issues

8.5 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this case and preparing this report had

careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

9 Recommendation

AUTHORISE CLOSURE OF THE ENFORCEMENT CASE

Appendix A: Enforcement Notice

ENFORCEMENT NOTICE

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(As amended)

ENFORCEMENT NOTICE
(Ref. No.: 20/00230/UNAU_B_01)

ISSUED BY: SOUTHEND-ON-SEA CITY COUNCIL

TO: See Schedule hereto

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) of the above Act, at the land described below. The Council considers that it is expedient to issue this Notice, having regard to the provisions of the Development Plan and to other material planning considerations.

2. **THE LAND AFFECTED**

245, Bournemouth Park Road, Southend-on-Sea, Essex, SS2 5LD shown edged bold black on the attached location plan at Annex B.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

Without planning permission, the erection of a rear extension.

4. **REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last four years and the Council considers it is expedient to issue this Notice for the following reasons:

The development subject of this notice does not have planning permission and is unauthorised.

Through its decision on planning application 21/01515/FULH, the Council has found that the extension by reason of its size, siting, design, position of openings and degree of projection beyond the adjoining dwelling results in unacceptable overlooking of and perception of loss of privacy, loss of outlook and an unacceptable sense of enclosure to the occupiers of No.243 Bournemouth Park Road resulting in significant harm to their residential amenity

The unauthorised development fails to accord with the National Planning Policy Framework (2021), Core Strategy (2007) Policies CP4 (Environment & Urban Renaissance) and KP2 (Development Principles), Development Management Document (2015) Policies DM1

(Design Quality) and DM3 (Efficient and Effective Use of Land) and the advice in the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

Given the nature and harmful impacts of the breach of planning control described and assessed in the planning policy context it is considered necessary and proportionate for this enforcement notice to be served in order to seek to remedy the identified harm.

5. WHAT YOU ARE REQUIRED TO DO

- (a) remove the unauthorised extension in its entirety
- (b) remove from site all materials resulting from compliance with (a)

Time for compliance: - 3 calendar months after this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 11th January 2023 unless an appeal is made against it beforehand.

DATED: This 14th day of December 2022

Signed:



Giles Gilbert
Executive Director (Legal & Democratic Services)

on behalf of:

SOUTHEND-ON-SEA CITY COUNCIL
Civic Centre, Victoria Avenue, Southend-on-Sea, Essex, SS2 6ER

THE SCHEDULE

Mr Aras Omer Ali
245 Bournemouth Park Road
Southend-on-Sea
Essex
SS2 5LD

National Westminster Bank PLC
(Co. Regn. No. 929027)
of Mortgage Centre
P.O. Box 123
Greenock
PA15 1EF

ANNEX A

YOUR RIGHT OF APPEAL

You can appeal, in writing, against this notice, but any appeal must be **received**, or posted in time to be **received**, by the Planning Inspectorate acting on behalf of the Secretary of State **before** the date specified in paragraph 6 of the notice.

When giving notice of appeal or within 14 days from the date on which the Secretary of State sends you a notice requiring you, you must submit a statement in writing specifying the grounds on which you are appealing against the enforcement notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

GROUND OF THE APPEAL

An appeal may be brought on any of the following grounds:

- a. that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.
- b. that those matters have not occurred.
- c. that those matters (if they occurred) do not constitute a breach of planning control.
- d. that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
- e. that copies of the enforcement notice were not served as required by section 172.
- f. that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
- g. that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

FEE PAYABLE FOR THE DEEMED APPLICATION

If your ground of appeal is, or includes ground (a) (that planning permission should be granted), for the deemed application for planning permission, under regulation 10 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, you must pay a fee, which is double that payable for a normal application. The fee payable is £412.

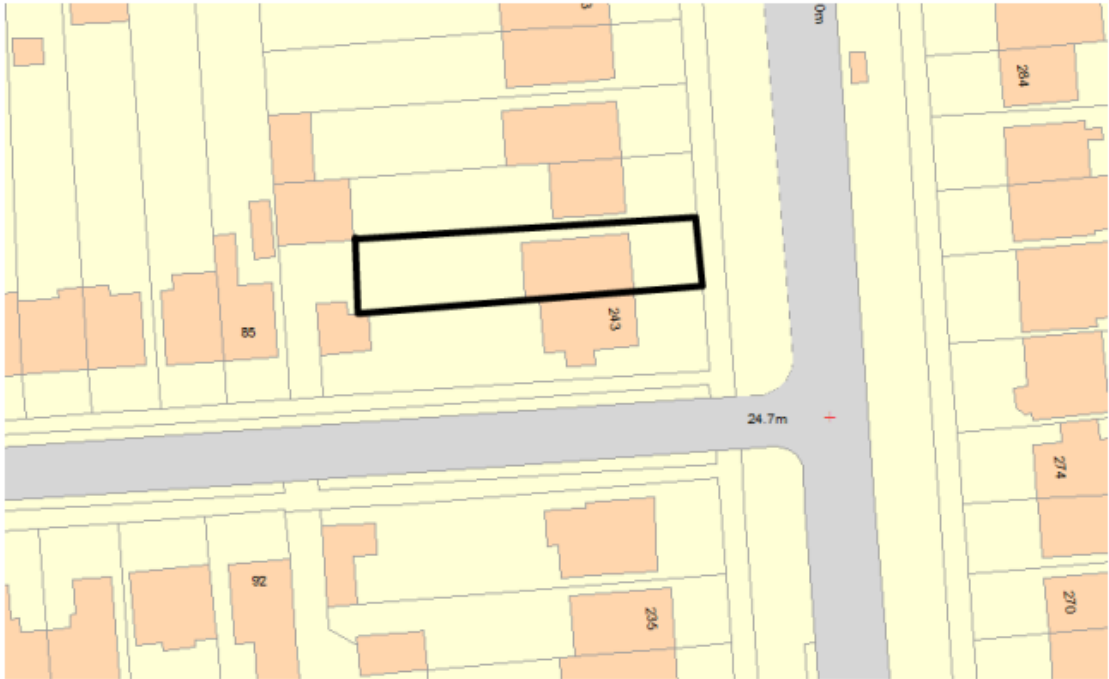
WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 6 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 5 of the notice.

Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council. It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed, and there is no outstanding appeal. A person guilty of an offence is liable, on summary conviction, to a fine currently not exceeding £20,000 or on conviction on indictment to an unlimited fine.

ANNEX B

245 Bournemouth Park, Southend-on-Sea, Essex, SS2 5LD





Customer Support Team
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Direct Line: 0303 444 5000

Email: enquiries@planninginspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- online at the [Appeals Casework Portal](https://acp.planninginspectorate.gov.uk) (<https://acp.planninginspectorate.gov.uk>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms