

Reference:	23/00172/UNAU_B	
Report Type:	Enforcement	
Ward:	Milton	
Breach of Planning Control:	Erection of external staircase and associated platform to the rear	
Address:	90 Alexandra Road, Southend-on-Sea, Essex, SS1 1HB	
Case Opened Date:	28th September 2023	
Case Officer	James Benn	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The site contains a three-storey, terraced property on the northern side of Alexandra Road. The property is subdivided into a ground floor flat and first floor maisonette. The area is residential in nature and tightly knit, with shallow rear gardens.
- 1.2 The site is within the Clifftown Conservation Area. The site is not subject to any other site-specific planning policy designations.

2 Lawful Planning Use

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

3 Relevant Planning History

- 3.1 24/01125/CLE: Replace existing fire escape to rear (certificate of lawful development - existing). Invalid.

4 Planning Policy and Legislation Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023)
- 4.2 Planning Practice Guidance (PPG) (2024)
- 4.3 National Design Guide (NDG) (2021)
- 4.4 Core Strategy (2007): Policies KP2 (Development Principles), CP4 (Environment and Urban Renaissance)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend-on-Sea's Historic Environment).
- 4.6 Southend-on-Sea Design and Townscape Guide (2009)
- 4.7 The Clifftown Conservation Area Appraisal (2023)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because it is considered expedient to issue an Enforcement Notice and this action requires authorisation by the Committee.

6 The alleged planning breach

- 6.1 The identified breach of planning control is:

Erection of external staircase and associated platform to the rear.

7 Efforts to resolve the breach to date

- 7.1 In September 2023 a complaint was received by the Council alleging the installation of a new external staircase to the rear of the property which had a larger platform than the previous external staircase's platform. In November 2023 a letter and then in December 2023 an email were sent to the property and owner advising them that planning permission

was required for the new external staircase and platform.

- 7.2 In response to the Council's letter and email, the owner claims that the new external staircase and associated platform is a like for like replacement of the previous external staircase and associated platform. In July 2024 a Certificate of Lawfulness for an Existing Development was submitted by the owner as an attempt to substantiate their claim. At the time of writing this report, this application remains invalid. The owner was contacted regarding the required documents to validate their application on 18th July 2024. On 27 July 2024 the owner was contacted again by the case officer regarding the required documents to validate their application. The application remains invalid on receipt.
- 7.3 On the basis of evidence collated by the Council, including photographs submitted by members of the public, lease plans submitted by the owner and site visits by case officers, the new external staircase has a materially larger platform than the previous external staircase, and it is not a like for like replacement and therefore planning permission is required. The new external staircase and associated platform remains in situ.

8 Appraisal of the harm caused

Impact on the Character of the Area including the Clifftown Conservation Area

- 8.1 Section 72(1) of the Planning and Listed Buildings and Conservation Areas Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 8.2 Given the limited public vistas available towards the development, the presence of comparable development at the rear of a neighbouring property and the former external staircase at the site itself, the development as erected does not result in significant harm to the character and appearance of the site, the streetscene and the wider area and has a neutral impact on the character, appearance and setting of the Clifftown Conservation Area.

Amenity Impacts

- 8.3 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 8.4 The former external staircase and associated platform was to the rear of the property and provided the first floor maisonette access to/from the rear garden/courtyard at the site. The limited size of the former staircase's platform was such that it was unlikely that it could have been used for external amenity and as such the staircase and platform would have been used for transient movement only.
- 8.5 The new external staircase and associated platform is in a similar position to the former staircase and associated platform, and it similarly provides the first floor maisonette access to/from the rear garden/courtyard at the site, but it has a materially larger raised platform area when compared to the former staircase, some 2.4m wide and 2.1m deep, which is of a size capable of being used for longer periods of external amenity. The 2.4m width of the new staircase somewhat comparable with the 2m width of former staircase, however the new staircase is significantly deeper than the former staircase. The new external staircase and associated platform and its potential use therefore has materially different impacts to

the neighbours than the previous situation.

- 8.6 The rear environment of the site and surroundings is close knit with several surrounding neighbouring rear private amenity areas in close proximity. The new external staircase's associated platform provides direct views for anyone using it into the adjoining and nearby rear private amenity areas of properties in Alexandra Road, Runwell Terrace and Cambridge Road, including Nos 88 and 92 (No 92 is subdivided into flats) Alexandra Road, Nos 10, 11 and 12 and 13 Runwell Terrace and No 30 Cambridge Road. There are also rear windows of properties in Runwell Terrace and Cambridge Road (Nos 10, 11 and 12 and 13 Runwell Terrace and No 30 Cambridge Road) in close proximity which are capable of being viewed directly from anyone using the platform. On this basis, it is considered that the new external staircase and associated platform results in both perceived and actual undue overlooking and loss of privacy to the adjoining neighbouring occupiers and is significantly harmful to their residential amenity.
- 8.7 No planning application has been submitted demonstrating that the impacts of the external staircase and associated platform are acceptable and/ or that its impacts can suitably be controlled through planning conditions.
- 8.8 The unauthorised development does not significantly harm the amenity of any neighbouring occupiers having regard to loss of light, loss of outlook, dominance, overbearing impacts or undue sense of enclosure.
- 8.9 Overall, the development is unacceptable and contrary to policy in the above regards in terms of its amenity impacts.

9 Enforcement and Legal Action

- 9.1 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. Enforcement action in this case will reasonably secure removal of the rear external staircase and associated platform in its entirety and removal from the site of all materials resulting from compliance with the removal of the rear external staircase and associated platform. It is considered that there are no lesser steps that could reasonably remedy the identified breach or associated harm in this instance.
- 9.2 When serving Enforcement Notices the Local Planning Authority must ensure a reasonable time for compliance. In this case a compliance period of 3 months is considered reasonable for compliance with the above requirements.
- 9.3 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served on the responsible parties as this will bring further focus to the need for the breach to be regularised and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owners in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 9.4 Taking enforcement action in this case may amount to an interference with the owners'/occupiers' human rights. However, it is necessary for the Council to balance the rights of the owners/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

Equality and Diversity Issues

- 9.5 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 planning enforcement 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.

10 Recommendation

10.1 AUTHORISE 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 to require those issued with a copy of the Enforcement Notice to:

- a) Remove the unauthorised staircase and associated platform to the rear; and**
- b) Remove from site all materials and debris resulting from compliance with requirement (a) above.**

10.2 With time for compliance of:

Three (3) calendar months.

10.3 For the following reason(s):

- 1. The unauthorised development gives rise to undue overlooking and loss of privacy to the adjoining and nearby neighbouring occupiers causing significant harm to residential amenity of occupiers at Nos 88 and 92 Alexandra Road, Nos 10, 11 and 12 and 13 Runwell Terrace and No 30 Cambridge Road. The unauthorised development is therefore unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1 and DM3 and the guidance contained within the Southend-on-Sea Design and Townscape Guide (2009).**